

REPUBLIC OF BULGARIA  
GRAND NATIONAL ASSEMBLY

COMMERCE ACT

Promulgated *State Gazette* No. 48/18.06.1991

Amended *SG* No. 25/1992; 61 & 103/1993; 63/1994; 63/1995; 42/1996

PART ONE

GENERAL PART

CHAPTER ONE

GENERAL PROVISIONS

Merchant

Article 1

**(1)** For the purposes of this Act a merchant shall mean any natural or legal person engaged by occupation in any of the following activities:

1. purchasing goods or other chattels for the purpose of reselling them in their original, processed or finished form;
2. purchasing securities for the purpose of reselling them;
3. manufacturing goods for sale;
4. insurance, commission, forwarding, warehousing, leasing activity by an agent;
5. banking or foreign-exchange transactions;
6. transportation, hoteliership, tourist, advertising, information, entertainment, impresario or other services;
7. transactions with intellectual property;
8. production of films, video and audio recording and similar activities;
9. publishing and printing activities;
10. purchasing, building or furnishing of real estates for the purpose of sale.

**(2)** Merchants are:

1. the companies;
2. the cooperatives, except housing cooperatives.

**(3)** Any person which has established a business, which in accordance with its purposes and volume requires that its activities be conducted on a commercial basis even if not listed under paragraph 1, shall also be deemed a merchant.

## Persons Who Are Not Merchants

### Article 2

The following shall not be deemed merchants:

1. natural persons engaged in farming;
2. artisans, persons providing services through their own labor or members of the professions, except where their activity may be defined as a business within the meaning of Article 1, paragraph 3;
3. persons providing hotel services by letting rooms in their own home.

## CHAPTER TWO

### COMMERCIAL REGISTER

#### Keeping a Commercial Register

##### Article 3

**(1)** Each district court shall keep a commercial register in which it shall register all merchants and all other relevant circumstances pursuant to this Act.

**(2)** Other registers for individual types of merchants may be kept by virtue of a law.

#### Obligation to Register

##### Article 4

**(1)** Every merchant must apply for registration in the commercial register by declaring the circumstances established by the preceding article.

**(2)** The persons which shall be under an obligation to declare the circumstances subject to registration shall be determined by law.

**(3)** Any person under an obligation to apply for registration, or respectively to present the documents or signatures provided for in this Act, shall do so within seven days of the occurrence of the circumstance, unless the law provides otherwise.

#### Public Nature of the Commercial Register

##### Article 5

Everyone shall be free to inspect the commercial register and the documents pursuant to which the entries have been made, as well as to obtain copies thereof.

#### Publishing of Registration

##### Article 6

The court shall publish the registrations made in the commercial register in the *State Gazette* when required by law.

## CHAPTER THREE

## TRADE NAME AND SEAT

### Definition

#### Article 7

**(1)** A trade name shall be the name under which a merchant shall carry on its business and under which it shall sign.

**(2)** In addition to the necessary content established by law, a trade name may also denote the purposes of a business, the names of the partners, and a freely chosen extension. A trade name must correspond to the truth, must not deceive, and must not be offensive to public order and morals.

**(3)** The merchant shall mandatorily inscribe its trade name in Bulgarian. It may additionally inscribe it in a foreign language.

### Trade Name of a Branch

#### Article 8

The trade name of a branch shall incorporate the trade name of the merchant and the extension "branch".

### Trade Name During Liquidation

#### Article 9

The trade name of a merchant which has been declared in liquidation shall carry the extension "in liquidation", and upon declaration of bankruptcy - "in bankruptcy".

### Change of Trade Name

#### Article 10

**(1)** A trade name may be changed upon an application by the merchant which has registered it.

**(2)** Should a trade name contain the name of a retiring partner, it may be preserved only with that partner's consent.

### Exclusive Right

#### Article 11

**(1)** A trade name may be used only by the merchant which has registered it.

**(2)** In case of use of another's trade name the interested parties shall be free to seek an injunction, as well as damages for such use.

### Seat and Registered Office

#### Article 12

**(1)** A merchant's seat shall be the community where its registered office is located.

**(2)** A merchant's address shall be the address of its registered office.

## Obligation to Provide Data

### Article 13

A merchant shall provide the following data on all its commercial correspondence: trade name; seat and registered office; court of registration; registration number and bank account. A merchant may also provide a forwarding address.

## Change of Seat

### Article 14

**(1)** Any relocation of a merchant's registered office to another community shall be declared before the court with which the merchant is registered, within the time period set forth in Article 4, paragraph 3.

**(2)** A relocation of the registered office to the district of another court shall be declared within the time period set forth in the preceding paragraph before the court where the merchant's new registered office shall be located.

**(3)** The court of the original registration shall forthwith forward through official channels the merchant's commercial file to the court where the new registered office is located.

## CHAPTER FOUR

### ENTERPRISES AND TRANSACTIONS WITH THEM

#### Transactions With an Enterprise

### Article 15

**(1)** An enterprise as a set of rights, obligations and factual relations shall be transferable by a transaction in writing with the signatures attested by a notary public. The transferor shall advise all creditors and debtors of the effected transfer.

**(2)** Absent another agreement with the creditors, upon the transfer of an enterprise the transferor shall be liable jointly and severally with the transferee. Creditors of recoverable liabilities shall first address the transferor.

#### Registration

### Article 16

**(1)** The transfer of an enterprise shall be registered in the commercial register in the sections of both the transferor and the transferee, and shall be published in the *State Gazette*.

**(2)** Should the contract transfer real property or another interest therein, the contract shall be registered with the notary public as well.

## CHAPTER FIVE

### BRANCHES

#### Branch

### Article 17

- (1) A merchant may open a branch outside the community where its seat is located.
- (2) A branch shall be registered in the commercial register of the court in whose district its seat is located.
- (3) The registration shall be made on the basis of a written application which shall stipulate:
1. the merchant's trade name, seat and purposes;
  2. the merchant's registered capital, when required by law;
  3. the seat and purposes of the branch;
  4. the branch manager.
- (4) The application shall be accompanied by a certificate of the merchant's registration.
- (5) The court in which the branch has been registered shall forthwith forward a copy of the court's ruling on the registration to the court where the merchant is registered. The registration shall be done as a matter of course.

#### Relocation of a Branch

#### Article 18

The rules pertaining to a merchant shall apply *mutatis mutandis* to the seat and registered office of a branch and its relocation.

#### Account Books of a Branch

#### Article 19

A branch shall keep its account books as an independent merchant, without preparing a separate balance sheet. The branch of a legal person which is not a merchant within the meaning of this Act and the branch of a foreign person shall further prepare a balance sheet.

#### Jurisdiction

#### Article 20

Actions based on disputes arising from a direct relationship with a branch may be brought against the merchant at the seat of the branch as well.

### CHAPTER SIX

#### AGENCY

##### Section I

##### Direct Agency

##### Procurator (Manager)

#### Article 21

(1) A procurator shall be a natural person commissioned and authorized by a merchant to manage its firm for compensation. Such authority may be given to more than one person for either a separate or joint exercising of the procuration. The signatures on the procurator's mandate (procuration) shall be notarized and it shall be submitted by the merchant for registration in the commercial register together with a specimen signature of the procurator.

(2) A procurator shall sign by adding his own name to the merchant's trade name and an extension indicating the procuration.

#### Procurator's Powers

##### Article 22

(1) A procurator shall be entitled to perform or effect any acts or transactions related to the carrying on of the business activities, to represent the merchant, and to authorize third parties to perform specific acts. He may not authorize third parties with those of his powers which are derived by operation of law.

(2) A procurator may not alienate or encumber any real property of the merchant except when expressly authorized to do so. The authorization may be restricted to the business of a single branch. No other restrictions shall be binding upon third parties.

#### Relationship Between Merchant and Procurator

##### Article 23

The relationship between a merchant and a procurator shall be governed by an agreement.

#### Binding Effect of Authorization upon Third Parties

##### Article 24

An authorization shall be binding upon third parties only after being registered in the commercial register.

#### Termination of Authorization

##### Article 25

(1) An authorization shall be terminated upon withdrawal by the merchant, and the registration of such withdrawal in the commercial register.

(2) An authorization shall not be terminated by virtue of a merchant's death or placing under judicial disability.

#### Agent

##### Article 26

(1) An agent shall be a person authorized by a merchant to perform, for compensation, the acts set forth in the mandate. Absent any other instructions, an agent shall be deemed authorized to perform all acts related to the merchant's usual business. The authorization shall be made in writing and the signature shall be notarized.

(2) An agent shall need express authorization to alienate or encumber real property, to accept bills of exchange, to obtain a loan, or to engage in litigation. Any other restrictions on its mandate shall be binding upon a third party only if that party new or ought to have known of such restrictions.

**(3)** An agent may not transfer its powers to a third party without the merchant's consent.

**(4)** An agent shall sign by adding its own name to the trade name and an extension indicating the agency.

#### Relationship Between Merchant and Agent

##### Article 27

The relationship between a merchant and an agent shall be governed by an agreement.

#### Termination of the Mandate

##### Article 28

The authorization of an agent shall be terminated in accordance with the provisions of civil law.

#### Restrictions and Liability

##### Article 29

**(1)** A procurator or agent may not, without the merchant's consent, effect commercial transactions either on their own behalf or on the behalf of a third party within the framework of their authorization. Consent shall be deemed given if at the time of authorization the merchant knew of the carrying on of such activities and their termination was not agreed upon expressly.

**(2)** In case of a breach of the obligations set forth in the preceding paragraph the merchant shall be entitled to seek damages or to state that the transactions effected by the authorised persons have been effected on its behalf. The statement shall be made in writing not later than one month of its becoming aware of the transaction, but not later than one year of the effecting of the transaction, and shall be addressed to the procurator or agent and to the third party.

**(3)** Claims pursuant to paragraph 2 shall expire by limitation after five years from the date the transaction was effected.

#### Shop Assistant

##### Article 30

**(1)** The relationship between a merchant and its assistant shall be governed by a contract.

**(2)** A shop assistant may not effect transactions on the merchant's behalf. When working in a generally accessible sales area, a shop assistant shall be deemed authorized to effect the transactions which are usually effected in such an area.

#### Restrictions

##### Article 31

A shop assistant may not engage in any commercial activity independently or on the behalf of third parties in competition with his employer, except with the latter's express consent.

#### Section II

#### Sales Representative

## Definition

### Article 32

**(1)** A sales representative shall be a person engaged independently and by occupation in assisting the business of another merchant. A sales representative may be authorized to effect transactions in the name of the merchant, or in its own name but on the behalf of the merchant.

**(2)** The contract between the merchant and the sales representative shall be executed in writing.

## Sales Representative's Obligations

### Article 33

A sales representative shall cooperate or effect transactions with due care, taking into consideration the merchant's interests. It shall forthwith notify the merchant of any intermediary activities or transaction carried out or effected by it.

## Merchant's Obligations

### Article 34

**(1)** A merchant shall provide the sales representative with all relevant information concerning the conclusion and performance of a contract.

**(2)** A merchant shall forthwith notify the sales representative whether it accepts a transaction effected without authorization.

## Commission Under Del Credere Contracts

### Article 35

A sales representative which undertakes to be personally liable for the performance of obligations under effected transactions shall be entitled to an additional commission which shall be agreed upon in writing. The parties may not agree in advance that no such commission shall be owed.

## Right to Commission

### Article 36

**(1)** A sales representative shall be entitled to a commission for all transactions effected by it or through its assistance during the term of its contract with the merchant.

**(2)** Where a sales representative is entrusted with a specified territory or circle of clients, it shall also be entitled to a commission for all transactions concluded without its assistance, but with persons from the same territory or with the same clientele.

**(3)** A sales representative shall be entitled to a commission for any of the merchant's claims which it has collected.

**(4)** Either party shall be entitled to request from the other abstracts from the account books concerning the transactions concluded on the basis of the agency agreement.

## Commission Rate

### Article 37

Where the commission has not been agreed upon, it shall be deemed to amount to the customary rate paid for the specific activities.

#### Commission Payment Term

##### Article 38

A sales representative's commission shall be paid on a monthly basis, unless the agreement provides otherwise.

#### Reimbursement for Customary Expenses

##### Article 39

A sales representative shall be entitled to reimbursement for the customary expenses related to its activities, unless the agreement provides otherwise.

#### Compensation Upon Termination or Avoidance

##### Article 40

**(1)** A sales representative shall be entitled to a compensation upon termination of its agreement, when the merchant continues to enjoy benefits from the clientele established by the sales representative.

**(2)** Such compensation shall be equal to the sales representative's average annual commission for the entire duration of its agreement.

**(3)** Compensation pursuant to the preceding paragraph shall not be due when the agreement is avoided through the sales representative's fault.

**(4)** Upon termination of the agreement the sales representative may claim compensation for already concluded or pending contracts.

#### Restrictions Following Termination of Contract

##### Article 41

**(1)** Any restrictions on the activities of a sales representative subsequent to the termination of the agreement shall be agreed upon in writing.

**(2)** Restrictions must encompass the same territory and type of goods or services as the agency agreement. They may not be for more than two years following the termination of the contract. The merchant shall owe a respective compensation for the period of restriction.

**(3)** Should a sales representative declare the agreement avoided through a fault of the merchant, the sales representative shall be free to discharge itself from the said restrictions not later than one month from the date of the avoidance.

#### Effect of Restriction

##### Article 42.

Even when not authorized to conclude contracts a sales representative may accept acts performed by third parties to protect their rights against imperfect performance by the merchant. A sales representative may act to secure evidence in name of the merchant. Any restriction on these rights shall be binding upon third parties only if they knew or ought to have known of the said restriction.

## Ratification of Contract

### Article 43

Should a sales representative conclude contracts without authorization, and the third party did not know of that fact, the contract shall be deemed ratified by the merchant if the merchant fails to reject it upon being notified of it by the sales representative or the third party and inform them correspondingly.

## Prohibition on Representation of Competitors

### Article 44

A sales representative may represent several merchants as long as they are not in competition among themselves. It may reach agreement with a merchant to be its exclusive sales representative.

## Scope of Agency

### Article 45

The subject and territory of a sales representative shall be determined by the agency agreement.

## Relationship Between Merchant and Sales Representative

### Article 46

**(1)** The internal relationship between the sales representative and the merchant shall be governed by the agreement between them. Absent any other provision, a sales representative shall arrange for its own premises. If the compensation is not indicated in the agreement, the customary compensation for the type of representation shall be due.

**(2)** Representation under the preceding paragraph may not be delegated to another party in the same territory.

**(3)** A sales representative shall indicate in the documents issued by it and on its commercial correspondence the information required under Article 13.

## Termination of Representation

### Article 47

**(1)** Where the sales representation agreement has been concluded for an indefinite term, during the first three years following the date of conclusion each of the parties may terminate it with a monthly notice and, after the end of the third year, with a three months' notice.

**(2)** An agreement which has been concluded for a definite period may be terminated before its expiration if the party wishing to terminate it compensates the other party for the damages caused.

**(3)** The rights of the sales representative under Article 40 may not be prejudiced by the termination pursuant to paragraphs 1 and 2.

**(4)** A sales representative which has ceased its activities shall apply to the court, within the time period set forth in Article 4, to delete its registration.

**(5)** Should a representation be terminated by reasons of death or placing under disability of the sales representative, the heirs or, respectively, the guardian, and in case of bankruptcy the respective court, shall inform the court of the deletion.

(6) Where no application has been made for the deletion pursuant to the previous paragraph, the deletion shall be made by the court on its own motion as soon as it learns of the grounds thereof.

## Applicability

### Article 48

The provisions of Articles 32 to 47 shall not apply to persons engaged as representatives or brokers in stock exchange transactions, or as representatives of persons engaged in auction operations.

## Section III

### Broker

#### Definition

### Article 49

**(1)** A broker shall be a merchant which by occupation acts as an intermediary so that transactions may be entered into.

**(2)** As far as brokerage for contracts for the carriage of goods by sea and for stock exchange transactions are concerned, the provisions for the said activities shall apply even when the brokerage is performed by a mercantile broker.

#### Broker's Journal

### Article 50

**(1)** A broker shall keep a journal in which it shall record on a daily basis all executed contracts. At the end of each day the broker shall date and undersign all entries for that day.

**(2)** Contracts shall be recorded consecutively in the order of their execution; an entry shall include the names of the contracting parties, the time of execution of the contract and the essential arrangements.

**(3)** A broker must, upon request, provide the parties with an abstract from its journal containing the full entry concerning their contract.

#### Brokerage

### Article 51

A broker shall be entitled to a commission from one or both parties in accordance with the arrangement reached. Absent such an arrangement, the customary brokerage for the type of transaction in the specific circumstances shall be owed by both parties.

## Section IV

### Trade Secrets

#### Obligation to Protect Trade Secrets

### Article 52

In carrying on their activities a procurator, an agent, a shop assistant, a sales representative and a broker must protect the trade secrets of the persons which have commissioned them to perform certain acts, as well as their good name as merchants.

## CHAPTER SEVEN

### ACCOUNT BOOKS

#### Obligation to Keep Accounts

##### Article 53

**(1)** A merchant shall keep accounts in which it shall record the movements of its enterprise's property. Such movements shall be recorded in chronological order.

**(2)** A merchant shall, through inventory performed within the time periods prescribed by the Accountancy Act, establish the availability and value of the items of the assets and liabilities of its enterprise's property.

**(3)** A merchant shall sum up the results of its commercial activities on the basis of the entries in its books and inventory, and prepare an annual financial statement and, where necessary, the relevant accounting notes. The annual financial statement shall be verified by a certified public accountant.

#### Continuity Of Opening and Closing Balance Sheet

##### Article 54

The opening balance sheet for each year shall correspond to the closing balance sheet for the preceding year. A balance sheet shall also be prepared when a merchant winds up its activities.

#### Admissibility as Evidence

##### Article 55

**(1)** Regularly kept account books and entries therein shall be admissible as evidence between merchants for establishing commercial transactions.

**(2)** Account books kept in violation of the provisions of this Act or the Accountancy Act shall be inadmissible as evidence in favor of the party whose duty it is to keep them.

## PART TWO

### TYPES OF MERCHANTS

#### DIVISION ONE

##### SOLE PROPRIETOR

## CHAPTER EIGHT

### NATURAL PERSON MERCHANT

#### Definition

##### Article 56

Any natural person possessing capacity whose domicile is in the country may register as a sole proprietor.

#### Restrictions

##### Article 57

Ineligible to be a sole proprietor shall be a person:

1. who is bankrupt and his rights have not been restored;
2. who has intentionally gone bankrupt and has left unsatisfied creditors.
3. who has been convicted for bankruptcy.

#### Registration

##### Article 58

**(1)** A sole proprietor shall be registered on the basis of an application which shall state:

1. the name, domicile, address and Unified Civil Code (EGN);
2. the trade name under which the activities shall be carried on;
3. the seat and the address of the registered office;
4. the purposes of the business.

**(2)** A specimen of the merchant's signature and an affidavit stating that the person has not been deprived of the right to carry on commercial activities shall be attached to the application.

**(3)** A person may register only one trade name as a sole proprietor.

#### Trade Name of Sole Proprietor

##### Article 59

A sole proprietor's trade name shall incorporate without abbreviation the person's given name and either the surname or patronymic by which he is generally known.

#### Transfer of Trade Name

##### Article 60

**(1)** A sole proprietor's trade name may be transferred to a third party only together with his enterprise. The consent to transfer a trade name shall be given in accordance with Article 15, paragraph 1.

**(2)** A sole proprietor's heirs, on acquiring the enterprise, shall be free to retain its trade name.

**(3)** In cases under the preceding paragraphs the new owner's name shall be added to the trade name.

**(4)** The transfer shall be registered in the commercial register and shall be published in the *State Gazette*.

## DIVISION TWO

### STATE-OWNED AND MUNICIPAL

### ENTERPRISES

#### CHAPTER NINE

##### PUBLIC ENTERPRISE MERCHANT

###### Status

###### Article 61

A state-owned and municipal enterprise shall be either a single person limited liability company or a single person joint stock company. State-owned and municipal enterprises may also form other companies or groups of companies.

###### Formation

###### Article 62

**(1)** State-owned enterprises shall be formed as or transformed into single person limited liability companies or single person joint stock companies pursuant to a procedure to be established by a law.

**(2)** Municipal enterprises shall be formed as or transformed into single person limited liability companies or single person joint stock companies through a resolution of the municipal council.

**(3)** State-owned enterprises which are not companies may be formed with a law.

## DIVISION THREE

### COMPANIES

#### CHAPTER TEN

##### GENERAL PROVISIONS

###### Definition

###### Article 63

**(1)** A company is an association of two or more persons for effecting commercial transactions with joint means.

**(2)** In cases provided by a law a company may be incorporated by one person.

**(3)** Companies shall be legal persons.

###### Types of Companies

###### Article 64

**(1)** The types of companies are:

1. general partnership;
2. limited partnership;
3. limited liability company;
4. joint stock company;
5. partnership limited by shares.

(2) Only the companies set forth in this Act may be established.

(3) Banking and insurance activities may be carried out only by joint stock companies or cooperatives.

#### Partners in a Company

#### Article 65

(1) A company's founders shall be Bulgarian or foreign natural or legal persons possessing capacity.

(2) A person may participate in one or more companies to the extent such participation is not prohibited by law.

#### Preliminary Agreement to Form a Company

#### Article 66

Persons wishing to form a company may reach agreement on the acts which must be performed so that the incorporation may be prepared. For a breach of obligations based on that agreement the parties shall be liable only for the actual damages caused.

#### Formation of a Company

#### Article 67

A company shall be deemed formed on the date of its registration in the commercial register. The application for registration shall be filed by the appointed managing organ.

#### Interpretation of the By-Laws

#### Article 68

The will of the parties and the objective of the interpreted provision shall be taken into account when interpreting the by-laws.

#### Liability for Acts Performed by the Company Prior to Registration

#### Article 69

(1) Any acts by the founders performed in the name of the as yet unincorporated company prior to the date of its registration shall create rights and obligations for the persons who have carried out the said acts. When transactions are effected it shall mandatorily be noted that incorporation is pending. The persons who have effected the transactions shall be liable jointly and severally for undertaken obligations.

(2) When the transaction has been effected by the founders or a person authorized by them, the rights and obligations shall be transferred *ex lege* to the incorporated company.

#### Voidability of Incorporated Company

##### Article 70

(1) The incorporation of a company shall be voidable when a violation of the law which cannot be eliminated has occurred.

(2) Any interested party, as well as the public prosecutor, may request from the court that the company be declared void.

(3) The court's ruling to declare the company void shall be effective from the date of entry into force. As of that moment the company shall be deemed terminated and that fact shall be registered on the court's own motion in the commercial register, after which liquidation shall be carried out by a court-appointed liquidator.

(4) Where acts in the name of the company declared void have been carried out, the founders shall be liable jointly and severally and their liability shall be unlimited.

#### Protection of Partnership

##### Article 71

Any partner in a company may bring an action to the district court of the company's seat to protect its right to be a partner and its individual rights as a partner, when these have been violated by the company's organs.

#### Non-Monetary Contributions

##### Article 72

(1) Should a partner or, respectively, a shareholder, make a non-monetary contribution, the articles or, respectively the by-laws, shall state the name of the contributor, a full description of the non-monetary contribution, its monetary value, and the grounds for the contributor's rights.

(2) The contribution in a limited liability company, a joint stock company or a partnership limited by shares shall be valued by three experts appointed by the court which shall register the company, at the request of the contributor and the founders. The valuation stated in the articles or, respectively, the by-laws, shall not be higher than the valuation assigned by the experts before the court.

(3) Should the contributor not agree with the valuation, it may participate in the company with a monetary contribution or withdraw from participation in the company.

(4) The contribution may not have as a subject future labor or services.

#### Paying Up of Non-Monetary Contributions

##### Article 73

(1) The contribution of a right for the creation or transfer of which a notarial form is required shall be effected with the articles. For contributions to a joint stock company the consent in writing of the contributor and a description of the contribution with a notarized signature shall be attached to the by-laws.

(2) The contribution of any other rights shall be made pursuant to the form the law provides for their creation or transfer.

(3) The contribution of a claim shall be made with the articles or, respectively, the by-laws, and the contributor shall attach evidence of having notified the debtor of the transfer of the claim.

(4) Title to a contribution shall be acquired from the moment of the company's formation.

(5) Where a contribution has as a subject a real right over real property, the respective organ of the company shall, after such right has arisen, present a certified by a notary public abstract of the articles for recording in the notary register of deeds and, whenever necessary, separately the consent of the contributor as well. The organ shall present a certified by a notary public abstract of the by-laws and the consent of the contributor. In making the recording the notary public shall ascertain the contributor's rights.

#### Repeal of a Resolution of the Company's General Meeting

##### Article 74

(1) Every partner or shareholder may bring an action before the district court of the company's seat for the repeal of a resolution of the general meeting when such resolution is inconsistent with a mandatory provision of the law or with the articles or, respectively, the by-laws of the company. The action shall be brought against the company.

(2) The action shall be brought within 14 days of the date of the meeting when the plaintiff was present or was duly notified, or otherwise within 14 days of learning of the resolution, but not later than three months after the date of the general meeting.

(3) A partner or shareholder may intervene in a proceeding in accordance with the provisions of the Code of Civil Procedure. It may carry on the proceedings even after the withdrawal of the original plaintiff.

#### Subsequent Voiding of Annulled Resolution

##### Article 75

(1) The instructions given by the court in repealing a general meeting resolution concerning the interpretation of the law, the memorandum of association or the by-laws shall be binding on the general meeting whenever it discusses the same issue again.

(2) Resolutions or acts by the company's organs which are in contravention of an effective court ruling are null and void. Each partner or shareholder may at any moment refer to such nullity or request its proclamation by the court.

## CHAPTER ELEVEN

### GENERAL PARTNERSHIP

#### Section I

##### General Provisions

##### Definition

##### Article 76

A general partnership shall be a company formed by two or more persons for the purpose of effecting commercial transactions by occupation under a joint trade name. The partners shall be liable jointly and severally and their liability shall be unlimited.

#### Trade Name

#### Article 77

The trade name of a partnership shall consist of the surnames or trade names of one or more of the partners with the extension "sabiratelno druzhestvo" [general partnership] or "sadruzhie" ("s-ie") [partners].

#### Content of Articles of Partnership

#### Article 78

A partnership's articles shall be drawn up in writing with notarized signatures of the partners and shall state:

1. the name and domicile or, respectively, the trade names and seat, as well as the address of each partner;
2. the trade name, the seat and the purposes of the partnership;
3. the type and amount of each partner's contribution and the valuation thereof;
4. the manner of distribution of profits and losses among the partners;
5. the manner of management and representation of the partnership.

#### Registration of the General Partnership

#### Article 79

(1) The application for registration of the general partnership in the commercial register shall be signed by all partners and the articles of partnership shall be attached to it.

(2) Registered in the register shall be the information under items 1, 2 and 5 of the preceding article.

(3) The persons authorized by the articles of partnership to represent the partnership shall submit specimen signatures.

#### Section II

#### Partners' Relationships

#### Primacy of the Articles

#### Article 80

The partners' legal relationships shall be governed by this Section, unless the articles of partnership provide otherwise, with the exception of the provision of Article 87.

#### Compensation for Expenses and Damages

## Article 81

(1) A partner shall be entitled to reimbursement for necessary expenses incurred in the course of the partnership's business and to compensation for damages suffered in connection with such business.

(2) The partnership shall pay the interest as set by law on such expenses incurred or damages suffered by a partner.

### Obligation to Pay Interest

## Article 82

A partner which is in arrears in paying its monetary contributions or receives or, respectively, takes partnership money for itself without being entitled to do so, shall owe the partnership the repayment of all such moneys and the interest as set by law. Should the damages for the partnership be greater, the partnership may seek compensation for the balance.

### Prohibition on Competition

## Article 83

(1) A partner may participate in another company or enter into transactions related to the purposes for which the partnership was set up, on its own account or on account of a third party, only with the consent of the other partners.

(2) In case of a violation of paragraph 1 the partnership may request compensation for the damages suffered or state that it shall assume the rights and obligations under the concluded transactions. The statement must be made in writing within one month of acquiring knowledge of the transaction, but not later than one year of its conclusion, and be forwarded to the partner and the third party.

(3) The right to an action pursuant to the preceding paragraph shall expire after three months from the date of the partners' becoming aware of the said act, or after three years of the commitment of the said acts when the partners have no knowledge of them.

### Management

## Article 84

(1) Each partner shall be entitled to take part in the management of the partnership's business, except when management has been assigned with the articles of partnership to one or several of the partners or to a third party.

(2) The consent of all partners shall be required for the acquisition or disposal of real rights over real property, for the appointment of a manager who is not a partner, or for executing an agreement for a cash loan exceeding a sum fixed in the articles of partnership.

### Revocation of Management Assignment

## Article 85

The resolution to assign the management to one or several partners may be revoked by the district court of the partnership's seat upon an action brought by some of the partners, if the managers have committed a breach of their obligations, as well as on other grounds provided for in the articles of partnership. The ruling shall be registered upon the court's own motion.

### Partner's Right to Exercise Control

## Article 86

A partner which does not participate directly in the management shall be entitled to obtain information on the partnership's business, to inspect the books, the partnership and other papers, and to ask for explanations from the managers.

## Resolutions

### Article 87

Where the articles of partnership require that resolutions be adopted with a majority vote, each partner shall be entitled to one vote. Resolutions shall be recorded in the minutes book.

## Section III

### Partners' Relationship With Third Parties

#### Liability of the General Partnership

### Article 88

When bringing an action against the partnership the plaintiff may also name as defendants one or several of the partners. Forcible execution shall be directed first against the partnership, and, in case of impossibility for satisfaction, against the partners.

#### Representation

### Article 89

(1) Each partner shall represent the partnership, unless the articles of partnership provide otherwise.

(2) A limitation upon the representative powers of a partner shall not be binding upon *bona fide* third parties if it is not registered in the commercial register.

#### Revocation of Representative Powers

### Article 90

The representative powers of a partner may be revoked pursuant to Article 85.

#### Partners' Plea

### Article 91

A partner may, in addition to the partnership's pleas, make its personal pleas before the partnership's creditors.

#### Liability of Newly Admitted Partners

### Article 92

The liability for all of the partnership's debts of a newly admitted partner in an existing partnership shall equal that of the other partners.

## Section IV

## Dissolution of a Partnership and Termination of a Partners' Participation

### Grounds for Dissolution

#### Article 93

A general partnership shall be dissolved upon:

1. expiry of its term or under other circumstances provided in the articles of partnership;
2. the agreement of the partners;
3. declaring the partnership bankrupt;
4. where there is no other provision, death or the placing under judicial disability of a partner or dissolution of a partner which is a legal person;
5. request of the trustee in bankruptcy in case of bankruptcy of a partner;
6. notice of termination from a partner;
7. a court ruling in the cases established by law.

### Dissolution upon Notice from a Partner

#### Article 94

Where a partnership has been formed for an indefinite period of time each partner may request its dissolution by sending at least six months prior notice in writing to all remaining partners, unless the articles of partnership provide otherwise.

### Dissolution by Court Order

#### Dismissal of Partner

#### Article 95

**(1)** The district court may dissolve a partnership upon an action brought by a partner when another partner has deliberately or in gross negligence omitted to perform an obligation of its under the articles of partnership or the performance of the obligation has become impossible. This rule shall also apply whenever a partner acts against the interests of the partnership.

**(2)** Upon an action brought by a partner the court may, instead of dissolving the partnership, dismiss the partner which is at fault.

### Dissolution upon Notice from a Private Creditor of a Partner

#### Article 96

**(1)** The creditor of a partner which in the course of six months cannot be satisfied by forcible execution upon the debtor's personal property may attach that partner's liquidation share and request the dissolution of the partnership upon a notice in writing pursuant to the procedure set forth in Article 94.

(2) A partnership shall not be dissolved in case the partnership or the remaining partners repay the debt following the attachment pursuant to the preceding paragraph. In this case only the participation of the debtor partner shall be terminated, unless the partners decide otherwise.

#### Perpetuation of Partnership

##### Article 97

(1) The partners may provide in the articles that the partnership shall continue to exist in the case of termination of the participation of a partner. In this case the remaining partners shall buy out the share of the partner which has terminated its participation, and in the case of a partner's death, those of its heirs who wish shall be admitted as partners. The heirs shall state their intent to be admitted as partners not later than three months from the date of the opening of the succession.

(2) In case the heirs do not wish to be admitted as partners, as well as in case of termination of the participation of a partner, the partnership shall pay the value of the share in the partnership's assets of the decedent or the partner which has terminated its membership, and their share in the annual profits for the period up to the death or termination of the participation.

#### Limitation

##### Article 98

(1) The right of action against a partner for obligations of the partnership shall expire by limitation after five years, except where the right of action against the partnership is subject to a shorter limitation.

(2) The limitation period shall run from the date on which the dissolution of the partnership or the termination of the participation of the partner is registered in the commercial register.

(3) An interruption of the limitation with respect to the dissolved partnership shall also apply to those partners which were partners at the time of the dissolution.

## CHAPTER TWELVE

### LIMITED PARTNERSHIP

#### Section I

##### General Provisions

##### Definition

##### Article 99

(1) A limited partnership shall be formed with articles of partnership between two or more persons for carrying out commercial activities under a common trade name, whereby for the partnership's obligations one or more of the partners shall be liable jointly and severally and their liability shall be unlimited, and the remaining partners' liability shall not exceed the amount of the agreed upon contribution.

(2) The provisions for the general partnership shall apply *mutatis mutandis* to the limited partnership, to the extent this chapter does not provide otherwise.

#### Form

##### Article 100

The articles of partnership shall be drawn up in writing with notarized signatures of the partners.

Trade Name

Article 101

**(1)** The company's trade name shall contain the extension "komanditno druzhestvo" [limited partnership] or the abbreviation "KD" and the name of at least one of the general partners.

**(2)** The names of limited partners shall not be incorporated in the trade name of a limited partnership, but in case this has occurred those partners shall be deemed to bear unlimited liability *vis a vis* the creditors of the partnership.

Content of the Articles of Partnership

Article 102

A limited partnership's articles shall state:

1. the trade name of the partnership;
2. the seat and the registered office;
3. the purposes for which the partnership is set up;
4. the names or, respectively, the trade names and the addresses of the partners and the extent of their liability;
5. the capital;
6. the type and amount of the partners' contributions;
7. the manner of distribution of profits and losses among the partners;
8. the manner of management and representation of the partnership.

Registration

Article 103

A limited partnership shall be registered with the commercial register of its seat by the general partners, which shall file the articles of partnership and specimen signatures.

Section II

Partners' Legal Relationships

Primacy of the Articles of Partnership

Article 104

The partners' legal relationships, to the extent the articles of partnership contain no provision to the contrary, shall be governed by this Section.

Management

#### Article 105

A limited partnership shall be managed and represented by the general partners. A limited partner has no right to manage the partnership and block resolutions of the general partners.

Acts by a Limited Partner

#### Article 106

Should a limited partner effect transactions in the name and on behalf of the partnership without being the partnership's manager or agent it shall be personally liable, except when the partnership ratifies the transaction.

Prohibition Concerning an General Partner

#### Article 107

The rule of Article 83 shall apply to a general partner.

Limited Partner's Rights

#### Article 108

A limited partner may inspect the partnership's books and request a transcript of its annual financial statement. In case of refusal the district court shall, on the motion of such partner, order that these be placed at the disposal of the partner.

Limited Partner's Participation in Profits and Losses

#### Article 109

**(1)** Where a limited partner has not paid in full the stipulated contribution, such contribution shall be deducted from its share of the profits.

**(2)** A limited partner shall participate in losses up to the amount of the stipulated contribution. It shall not be bound to pay back any profits it has received to offset subsequent losses.

Prohibition on Distribution of Profits

#### Article 110

Where at the end of a calendar year it is established that a partnership has shown losses which affect the contributions made, no profits shall be distributed before the contributions have been restored to their stipulated amounts.

### Section III

Partners' Legal Relationships With Third Parties

Liability of Limited Partner

#### Article 111

A limited partner shall be liable towards the partnership's creditors to the extent of its stipulated contribution, even when it has not been paid in full.

## Liability Prior to Registration

### Article 112

A limited partner shall bear unlimited liability with respect to transactions entered into by it in the name of the partnership prior to its formation, or after such formation whenever the creditor did not know that it was contracting with a limited partner.

## CHAPTER THIRTEEN

### LIMITED LIABILITY COMPANY

#### Section I

##### General Provisions

##### Definition

### Article 113

A limited liability company may be formed by one or more persons which shall be liable for the company's obligations with their contributions to the company's registered capital.

##### Form of Articles of Incorporation

### Article 114

**(1)** The articles of incorporation shall be executed in writing.

**(2)** A partner may be represented by an agent holding a special power of attorney with notarized signature.

**(3)** When the limited liability company is formed by one person, a constitutive deed shall be drawn up instead of articles of incorporation.

##### Content of Articles of Incorporation

### Article 115

The articles of incorporation shall state:

1. the trade name and the seat of the company;
2. the purposes and the time period for which the company is being set up;
3. the names or, respectively, the trade names of the partners;
4. the registered capital. Where the full amount has not been paid at incorporation, the articles shall set the time periods and terms for payment;
5. the shares of the partners;
6. the management and manner of representation;
7. the privileges of the partners, where agreed upon;

## 8. other rights and obligations of the partners.

### Trade Name

#### Article 116

**(1)** The trade name of a company shall contain the extension "druzhestvo s ogranichena otgovornost" [limited liability company] or the abbreviation "OOD".

**(2)** Should all the capital be owned by one person, the trade name shall contain the extension "ednolichno OOD" [single person limited liability company]

### Capital and Shares

#### Article 117

**(1)** The registered capital of a limited liability company shall be not less than 50,000 leva. It shall consist of the shares of the company's partners, and no share shall be smaller than 500 leva.

**(2)** The sum total of all shares shall be equal to the registered capital, and the value of each share shall be a multiple of 100.

**(3)** The shares of the individual partners may be of unequal value.

**(4)** A share may be held jointly by several persons.

### Liability of Founders

#### Article 118

**(1)** The founders shall be liable jointly and severally before the company for damages caused in the course of its formation, if they have not acted with due care.

**(2)** The founders shall not be entitled to remuneration for the formation of the company from the registered capital.

### Company Registration

#### Article 119

**(1)** For registration of a company in the commercial register it shall be necessary:

1. to file the articles of incorporation;
2. to have an appointed manager or managers;
3. each partner to have paid at least one third of its share, but not less than 500 leva;
4. at least 70 per cent of the registered capital to have been paid.

**(2)** The data under items 1, 2, 3, 4 (only the amount of the registered capital) and 6 of Article 115 shall be registered in the register and published.

### Section II

## Partners' Rights and Obligations

### Shares

#### Article 120

- (1) Each partner shall pay up or contribute its share as provided in the articles of incorporation.
- (2) The obligation pursuant to the previous paragraph may not be remitted or offset with obligations of the company towards the partner.

### Consequences of Failure to Pay Up or Contribute One's Share

#### Article 121

- (1) The failure to pay up or contribute a share shall constitute grounds for the expulsion of a partner from the company. A partner which has failed to pay up or contribute its share within a specified period shall owe interest at a rate determined by operation of law, and compensation for damages in excess of such interest.
- (2) Where the share cannot be paid up or contributed by the partner owing such payment or contribution, and cannot be sold to a third party, the remaining partners must pay up the balance in proportion to their shares or reduce the company's registered capital in accordance with established procedures.

### Admitting a New Partner

#### Article 122

A new partner shall be admitted by the general meeting upon an application in writing, in which it shall state that it accepts the terms of the articles of incorporation. The resolution to admit the partner shall be registered in the commercial register.

### Partners' Rights

#### Article 123

Each partner shall be entitled to take part in the management of the company, in the distribution of profits, to be informed of the company's affairs, to review the company's books and to liquidation proceeds.

### Partners' Obligations

#### Article 124

The partners must pay up or contribute their shares, take part in the management of the company, provide assistance for the carrying out of its activities, as well as carry out the resolutions of the general meeting.

### Termination of Participation in a Company

#### Article 125

(1) The participation of a partner shall be terminated upon:

1. death or disability;

2. expulsion;
3. dissolution and liquidation, in the case of a legal person;
4. bankruptcy.

**(2)** A partner may terminate its participation in a company with a notice in writing made at least 3 months prior to the termination.

**(3)** Accounts shall be settled on the basis of the balance sheet for the last day of the month of termination of the participation.

#### Expulsion of a Partner

#### Article 126

**(1)** The general meeting may expel a partner which has not paid up or contributed its share. It may provide an additional period for meeting the obligation upon the expiration of which the partner shall be deemed expelled. The manager shall inform the partner in writing of the general meeting resolution.

**(2)** In the case of paragraph 1 the partner shall lose its title to any contributions made.

**(3)** A partner may be expelled by the general meeting following a notice in writing where it:

1. fails to perform its obligations for providing assistance for the carrying out of the activities of the company;
2. fails to abide by resolutions of the general meeting;
3. acts against the interests of the company.

#### Company Share

#### Article 127

Each partner shall have a company share in the company's assets the amount of which shall be determined in proportion to its share in the registered capital, unless otherwise agreed.

#### Certificate of Participation

#### Article 128

The certificates issued to the partners for evidencing their participation in the company shall not be negotiable securities.

#### Transfer of Shares

#### Article 129

**(1)** A share in a limited liability company may be transferred and inherited. The transfer of a share from one partner to another shall be unrestricted, and the transfer to third parties shall be subject to the provisions for admitting new partners.

**(2)** A share in a limited liability company shall be transferred with notarized signatures and shall be registered in the commercial register.

## Liability upon Transfer

### Article 130

The transferee shall be liable jointly and severally with the transferor for any payments to the registered capital due at the date of transfer.

## Partition of a Share

### Article 131

The partition of a share shall be admissible only with the consent of the partners, unless otherwise agreed.

## Joint Ownership of a Share

### Article 132

Where one share belongs to several persons they may exercise their rights over it only jointly. They shall be liable jointly and severally for any obligations arising from such share. The joint owners of the share shall designate a person to represent them before the company.

## Profits and Payments

### Article 133

**(1)** The partners cannot claim their shares as long as the company exists. They are only entitled to part of the profits in proportion to their shares, unless otherwise agreed.

**(2)** No interest on the partner's profits may be agreed upon.

## Additional Monetary Contributions

### Article 134

**(1)** For covering losses and in case of temporary shortage of cash the partners may be required, by a general meeting resolution, to make additional monetary contributions within a fixed period. The additional contributions shall be in proportion to the respective shares in the capital, unless otherwise determined.

**(2)** The partners shall bear the same liability for failure to pay up the additional contributions as for failure to pay up their shares.

**(3)** The additional contributions shall not affect the company's registered capital. It may be agreed that the company shall pay interest on them.

## Section III

### Management

#### Types of Organs

### Article 135

**(1)** The company's organs shall be:

1. the general meeting;
  2. the manager (managers).
- (2) The manager does not necessarily have to be a partner.

#### General Meeting of Partners

#### Article 136

- (1) The general meeting of partners shall consist of the partners.
- (2) The company's manager shall take part in the general meeting's sittings in a consultative capacity.
- (3) Where the number of employees exceeds 50, they shall be represented in the general meeting in a consultative capacity.

#### Powers of the General Meeting

#### Article 137

- (1) The general meeting shall:
  1. amend the articles of incorporation;
  2. admit and expel partners, give consent on the transfer of a share to a new partner;
  3. approve the annual report and balance sheet, distribute the profits and resolve on their payment;
  4. resolve on the increase or decrease of the registered capital;
  5. appoint a manager, fix his remuneration and relieve him of liability;
  6. resolve on setting up or closing down branches and participation in other companies;
  7. resolve on the acquisition or alienation of real property and real rights therein;
  8. resolve on bringing a company action against the manager or comptroller and appoint an attorney to proceed with the suits against them;
  9. resolve on additional monetary contributions.
- (2) Each partner has as many votes in the general meeting as its share of the capital, unless the articles provide otherwise.
- (3) Resolutions under items 1, 2 and 4 of paragraph 1 shall be adopted unanimously. The partner whose expulsion is put to a vote shall not vote. All remaining resolutions shall be adopted with a majority of the capital, unless the articles provide otherwise.
- (4) The partners may vote by proxy only when such proxy holds a special power of attorney in writing; the above rule shall not apply to partners which are legal persons or to agents by operation of law.
- (5) The general meeting shall adopt resolutions on labor and social issues only after hearing the position of a representative of the company's employees.

## Convening a General Meeting

### Article 138

- (1) A general meeting shall be convened by the manager at least once every year.
- (2) The manager shall also convene a general meeting upon the request in writing of the partners whose shares amount to at least one tenth of the capital. Should the manager fail to convene a general meeting within two weeks, the partners which have requested its convening shall be entitled to do so.
- (3) The manager shall convene a general meeting immediately should the losses exceed one fourth of the registered capital.

## Notice of General Meeting

### Article 139

- (1) The general meeting shall be convened by a notice in writing received by each partner at least 7 days before the date of the meeting, unless the articles provide otherwise. The notice shall specify the business to be transacted.
- (2) general meeting resolutions may be adopted in absentia when all partners have stated in writing their consent for the resolution.

## Registration of Resolutions

### Article 140

- (1) The general meeting resolutions which are related to registrations pursuant to Article 119, paragraph 2 shall be registered in the commercial register.
- (2) Paragraph 1 shall apply to the resolutions of the owner of a single person company.

## Management and Representation

### Article 141

- (1) The manager shall organize and direct the activities of the company in accordance with the law and the general meeting resolutions.
- (2) The company shall be represented by the manager. Where several managers have been appointed each one of them may act independently, unless the articles provide otherwise.
- (3) The name of the manager, who shall present a notarized specimen signature, shall be registered in the commercial register. The registration shall be published in the *State Gazette*.

## Prohibition on Competition

### Article 142

- (1) Without the consent of the company the manager may not:
  1. effect commercial transactions in his own or in a third party's name;
  2. participate in partnerships and partnerships limited by shares, and in limited liability companies;

3. hold positions in managing organs of other companies.

(2) The limitations under paragraph 1 shall apply when the activities carried out are similar to those of the company.

(3) For violations of his obligations under paragraph 1 the manager, when not a partner, may be dismissed without notice and without compensation. He shall owe compensation for damages caused to the company.

#### Company Books

##### Article 143

(1) The company shall keep a book of shares and minutes book on the general meeting resolutions.

(2) The value of each partner's share, the payments made and all relevant changes thereto shall be recorded in the book of shares.

(3) The manager shall be responsible for the regular keeping of the company books.

#### Comptroller

##### Article 144

(1) The articles may provide for the appointment of a comptroller (comptrollers) who shall supervise the observance of the articles, the taking of proper care of the company's property and shall report to the general meeting.

(2) The following may not be comptrollers:

1. the managers, their deputies and company employees;
2. spouses, descendants or ascendants and collateral relatives to the third degree of the persons under the preceding item;
3. persons who with a sentence have been deprived of the right to hold a position of financial accountability.

(3) In a single person company the comptroller shall be appointed by the owner.

#### Liability of the Manager and the Comptroller

##### Article 145

The manager and the comptroller shall be financially liable for damages caused to the company.

#### Auditors

##### Article 146

(1) The company's annual financial statement shall be audited by one or several auditors who shall be certified public accountants.

(2) Such audit shall be a condition for approving the annual financial statement.

(3) The auditors shall be appointed by the general meeting before the expiration of the calendar year. They shall be liable for the proper and unbiased audit and for maintaining confidentiality.

#### Management of a Single Person Limited Liability Company

##### Article 147

(1) The single owner of the capital shall manage and represent the company either personally or through an appointed by it manager. In case the owner is a legal person the manager of such legal person or a person designated by him shall manage the company.

(2) The single owner of the capital shall resolve on the issues falling within the powers of the general meeting.

#### Section IV

#### Amending the Articles of Incorporation

##### Increase of Registered Capital

##### Article 148

(1) The registered capital may be increased through:

1. increasing the value of the shares;
2. subscribing new shares;
3. admitting new partners.

(2) The partners may increase the value of the shares pro rata to their holdings, unless the articles of incorporation or the general meeting resolution provide otherwise.

##### Reduction of Registered Capital

##### Article 149

(1) The registered capital may be reduced to not less than 50,000 leva by a resolution to amend the articles of incorporation observing the requirements of Articles 150 and 151.

(2) The resolution shall state the purpose of the reduction, its amount and the manner through which it shall be accomplished.

(3) The reduction may be effected through:

1. reducing the value of shares;
2. cancellation of the share of a partner which has terminated its participation;
3. relieving of the obligation to pay up the unpaid portion of the registered capital.

#### Notice to Creditors

##### Article 150

(1) The resolution to reduce the registered capital shall be published in the *State Gazette*. In the notice the company shall state that it is ready to provide security for claims or to pay its obligations as of the date of publication to the creditors which do not agree with the reduction.

(2) The creditor's consent for the reduction shall be assumed if within three months of the publication they do not express in writing their objection.

(3) The notice to known creditors shall be made in writing.

#### Registration of the Reduction

##### Article 151

(1) The amendment to the articles with which the registered capital is reduced shall be registered upon expiration of the time period specified in the previous article.

(2) Attached to the application for registration shall be proof of observance of the requirements of Article 150 and a statement in writing of the manager that either security has been provided or the debt has been repaid to the creditors which have not consented to the reduction.

#### Managers' Liability

##### Article 152

Should the data for registration of the reduction provided by the manager prove to be untrue, he shall be liable for the damages suffered by the creditors to the extent they could not be satisfied by the company. In the case of several managers they shall be liable jointly and severally.

#### Payments Pursuant to Reduction

##### Article 153

Payments to the partners pursuant to a reduction of the registered capital may be made only after the reduction has been registered.

#### Section V

#### Dissolution and Liquidation of the Company

##### Dissolution of the Company

##### Article 154

(1) The company shall be dissolved:

1. with the expiration of the term set in the articles;
2. upon decision of the partners adopted with a two thirds majority of the shares, unless the articles provide otherwise;
3. through a consolidation or merger with a joint stock company or another limited liability company;
4. upon being declared bankrupt;
5. by a decision of the district court in cases provided for by law.

(2) The articles may provide for other grounds for dissolution of the company.

#### Dissolution by a Decision of the Court

##### Article 155

The company may be dissolved by a decision of the district court of its registration upon:

1. an action by the partners showing serious cause. The action shall be brought against the company if the plaintiffs' shares represent more than one fifth of the registered capital;
2. an action by the public attorney where the company has not been formed in accordance with legally prescribed procedures or where its activities are in contravention to the law.

#### Liquidation of a Company

##### Article 156

- (1) In the case of dissolution of a company pursuant to Article 154, items 1, 2 and 5 and Article 155 a liquidation procedure shall be initiated.
- (2) The company's liquidator shall be its manager, except where another person has been appointed with the articles or with a resolution of the general meeting.
- (3) Upon request of the comptroller or of partners holding at least one tenth of the shares the court may appoint another liquidator.
- (4) The liquidation of the company shall be performed pursuant to Chapter Seventeen.

#### Dissolution of a Single Person Limited Liability Company

##### Article 157

- (1) A company in which the capital is owned by a single natural person shall be dissolved upon the death of such person, except where provided otherwise or where the heirs wish to continue its activities.
- (2) Where the capital is owned by a single legal person the company shall be dissolved with the dissolution of that legal person.

### CHAPTER FOURTEEN

#### JOINT STOCK COMPANY

##### Section I

##### General Provisions

##### Definition

##### Article 158

- (1) A joint stock company is a company the capital stock of which is divided into shares. The company shall be liable before its creditors with its assets.

(2) The trade name of the joint stock company shall include the extension "aktsionerno druzhestvo" [joint stock company] or the abbreviation "AD".

Number of Founders

Article 159

(1) The founders of a joint stock company may be at least two natural or legal persons.

(2) In certain cases provided by law a joint stock company may be formed by one person. The constitutive deed shall approve the by-laws, specify the system of management and appoint the first supervisory board or board of directors and set their mandate.

Founders

Article 160

(1) Founders are those persons who have signed the offer for incorporation of the company.

(2) Persons declared bankrupt may not be founders.

Capital and Shares

Article 161

(1) The capital stock and the value of the shares shall be designated in leva.

(2) The minimum value of the capital stock where the joint stock company is formed through subscription shall be 5,000,000 leva, and 1,000,000 leva where it is formed without subscription.

(3) The minimum amount of the capital stock required for performing banking or insurance activities shall be determined by a separate law.

(4) The capital stock must be fully subscribed.

Nominal Value of a Share

Article 162

The minimum nominal value of a share shall be 100 leva. Larger nominal values of shares must be multiples of 100.

Section II

Incorporation

Prospectus

**Initiating a subscription**

Article 163 (Amended - SG No. 63/1995)

(1) The initiating by offer for opening a subscription for raising capital of the company shall be effected under terms and procedure established by an Act.

(2) Each person who has subscribed shares shall be presented a certified copy of the offer."

#### Content of the Prospectus

##### Article 164

(Repealed - SG No. 63/1995)

#### Founders' Liability

##### Article 165

The founders shall be liable jointly and severally for any damages caused by untrue data in the prospectus.

#### Payments

##### Article 166

**(1)** Monetary payments shall be made to a bank account opened by the founders in their name, with an indication of the name of the payer, and any payments with deposited sums shall be effected with their unanimous decision. After incorporation the raised sums shall be transferred to the company's account.

(2) The provisions of Articles 72 and 73 shall apply *mutatis mutandis* to non-monetary contributions.

#### Interim Certificate

##### Article 167

**(1)** For payments or contributions for subscribing to shares the shareholders shall receive interim certificates signed by the founders or by a person authorized by them.

(2) The shareholders shall receive their shares upon presentation of interim certificates.

#### Constituent Meeting

##### Article 168

**(1)** Within two months after the expiration of the subscription or after the full amount of the capital stock has been subscribed the founders shall convene a constituent shareholders meeting.

(2) The constituent meeting may transact business if not less than half the subscribed capital is represented and at least five persons which have subscribed shares are present.

(3) Should the founders fail to certify before the bank within two months that the company has been incorporated, the depositors may withdraw their payments in full. The founders shall be liable jointly and severally for the payment of the deposited sums.

#### Incorporation without Subscription

##### Article 169

The raising of capital may also be done at the constituent meeting, if the remaining requirements have been met. In this case at least two persons which have subscribed shares and which represent at least half of the subscribed capital must be present.

## Objectives of the Constituent Meeting

### Article 170

(1) The constituent meeting shall:

1. establish whether the capital has been raised and the necessary payments have been made, shall adopt a resolution on the founders' report and on relieving them of liability;
2. adopt a resolution on incorporating the company;
3. adopt the by-laws;
4. appoint a supervisory board or, respectively, a board of directors, except in the cases of Article 164, item 7.

(2) The resolutions on items 1-3 of the preceding paragraph shall be adopted unanimously.

(3) A resolution of the constituent meeting with which issues settled in the prospectus are amended, except where all subscribers of shares are present at the constituent meeting and they agree to the amendment of the prospectus, shall be null and void.

## Incorporation of a Company with the Subscribed Capital

### Article 171

Where the stated in the prospectus capital has not been fully subscribed the constituent meeting may decide that the joint stock company be incorporated with the actually subscribed capital, if it is not below the required minimum.

## Content of the By-Laws

### Article 172

The by-laws shall contain:

1. the trade name and the seat;
2. the purposes and the term, if any;
3. the amount of the capital stock, the type and number of shares and the nominal value of each share;
4. the company's organs;
5. the type and value of the non-monetary contributions, if any, the persons making them, the number and nominal value of the shares which they shall be given;
6. the advantages, if any, which the founders, by name, have reserved for themselves;
7. the founders' right to appoint the first supervisory board or board of directors of the company and to determine its mandate, if such a mandate is foreseen,;
8. other terms with respect to the incorporation, existence and dissolution of the company.

## Founders' Liability

## Article 173

The founders shall be liable personally and jointly and severally for the obligations which they have undertaken with respect to the incorporation of the company. After incorporation they shall be entitled to compensation for the necessary and useful expenses they have made.

## Requirement for Registration of the Company

### Article 174

**(1)** For the registration of a joint stock company in the commercial register it shall be necessary that:

1. the by-laws have been adopted;
2. the full amount of the capital stock has been subscribed;
3. 25 per cent of the capital stock has been paid up;
4. the members of the board of directors or, respectively, the supervisory board have been appointed;
5. the remaining requirements of the law have been fulfilled.

**(2)** The data pursuant to Article 172, items 1-4 and 8 shall be registered in the commercial register and the registration shall be published.

## Section III

### Shares

#### Nominal Value of the Shares. Denominations

### Article 175

**(1)** A share shall be a security which shall attest to the fact that its owner participates in the capital stock with the nominal value indicated on it.

**(2)** A joint stock company may not issue shares of a different nominal value.

**(3)** Shares may be issued in denominations of 1, 5, 10 and multiples of 10 shares.

### Issue Price

### Article 176

**(1)** The issue price is the price at which the shares shall be purchased by the founders or, respectively, the subscribers in case the capital is raised through subscription.

**(2)** The issue price shall not be lower than the nominal value. Shares may also be subscribed at a price higher than the nominal value.

**(3)** The difference between the nominal value and the issue price shall be set aside for the company's reserve fund.

### Indivisibility

## Article 177

Shares are indivisible. Where a share belongs to several persons they shall exercise their rights in it jointly by designating a proxy.

## Types of Shares

### Article 178

- (1) Shares may be registered or bearer shares. Preferred shares may also be issued.
- (2) Bearer shares shall not be delivered until payment of their nominal value or issue price.
- (3) Where bearer shares are delivered before payment of the full issue price the amount of the instalments shall be indicated on them.

## Shareholders' Register

### Article 179

The joint stock company shall keep a shareholders' register in which the names and addresses of the owners of registered shares shall be recorded and the type, nominal value and issue price, quantity and serial numbers of the shares shall be indicated. The same shall be applied for interim certificates.

## Exchange of Shares

### Article 180

Bearer shares shall be exchanged for registered shares and vice versa upon request of the shareholder after payment in full of their price, unless the by-laws provide otherwise.

## Shareholders' Rights

### Article 181

- (1) A share entitles its owner to one vote in the general meeting of shareholders, to a dividend and to a share in the assets in case of liquidation in proportion to the nominal value of the share.
- (2) Where a company issues shares with special rights this must be indicated and provided for in the by-laws.
- (3) The shares providing equal rights form a separate class.

## Preferred Shares

### Article 182

- (1) Preferred shares may provide a guaranteed or additional dividend or share in the company's assets in case of liquidation, as well as other rights provided for in this Act or the by-laws. The by-laws may provide that preferred shares have no voting rights, which must be indicated on the respective share.
- (2) Preferred shares having no voting rights shall be included in the nominal value of the capital stock.
- (3) (New - SG No. 63/1995) It shall not be allowed more than 1/2 of the shares to be non-voting shares.

(4) Where a dividend due from a preferred share without voting rights is not paid in the course of 1 year and the delayed payment is not made during the following year together with the dividend due for that following year, the preferred share shall acquire voting rights pending payment of the delayed dividends. In this case the preferred shares shall be taken into account in determining the quorum and majority.

(5) In order to adopt a resolution with which the advantages arising from the non\_voting preferred shares are to be restricted, it shall be necessary to obtain the consent of the preferred shareholders, which shall convene at a separate meeting. The meeting may conduct business if not less than 50 per cent of the preferred shares are represented. Resolutions shall be adopted with a vote of at least three quarters of the shares so represented. The preferred shares shall acquire the right to vote upon the removal of the advantages.

#### Contents of a Share

#### Article 183

(1) A share shall contain:

1. the designation 'share' for a denomination of one or 'shares' for larger denominations, preceded by the respective number thereof;
2. type of the shares;
3. the number of the denomination and the serial numbers of the shares comprised therein;
4. the trade name and seat of the joint\_stock company;
5. the amount of the capital stock;
6. the total number of shares, their individual nominal value and their denomination structure;
7. the coupons and their maturity;
8. the signatures of two persons having authority to bind the company, and the date of issue.

(2) (New - SG No. 63/1995) A printed signature on the share shall also be considered valid signature.

(3) Filled in on the face of a registered share shall be the name of its first owner.

#### Coupons

#### Article 184

(1) Unless otherwise provided in the by-laws, shares shall be issued with dividend coupons for 20 years.

(2) Coupons may not be transferred separately from the shares.

(3) A coupon shall carry the designation 'Coupon', the trade name of the joint stock company, the number of the coupon, indication as to the share and its denomination, and the year for which dividend is payable on presentation thereof.

#### Transfer of Shares

#### Article 185

(1) Bearer shares shall be transferred by delivery.

(2) Registered shares shall be transferred by endorsement which, to be binding on the company, must be recorded in the registered shareholders register. The by-laws may provide for other conditions for the transfer of registered shares.

#### Liability of Transferor of Registered Shares

##### Article 186

The transferor of registered shares which have not been fully paid up or from which other obligations towards the company arise shall be liable jointly and severally with the transferee. The transferor's liability shall lapse upon the termination of a period of two years from the date that the transfer was recorded in the shareholders register.

#### Transfer of Interim Certificates

##### Article 187

(1) An interim certificate may not be transferred prior to the incorporation of a company.

(2) Transfers of interim certificates shall be subject to the provisions of Article 185, paragraph 2.

#### Buy-back of shares

##### Article 187a (New - SG No. 63/1995)

(1) A company may not buy-back its shares except for reduction of capital under Article 201, para 1, as well as in cases under paras 2, 6 and 7.

(2) Buy-back shall be allowed provided:

1. it has been expressly provided for in the charter;
2. the total nominal value of the shares that have been bought back does not exceed 10 percent of the capital;
3. shares that are subject of the deal have been paid-in in full;
4. the buy-back shall be effected on the grounds of decision of the general meeting of shareholders, adopted by a majority of 2/3 of the capital;
5. the buy-back shall be to the amount of undistributed profit of the company.

(3) The buy-back shall be effected pursuant to Chapter Nine, Sub-section III of the Securities, Stock Exchanges and Investment Companies Act.

(4) Upon completion of the buy-back, the exercising of rights related to the shares shall be discontinued until their subsequent sale within one year following the buy-back.

(5) The Board of Directors, the Managing Board respectively, shall publish within the annual report on its activity under Article 245 information in reference of the number and classes of all shares that have been bought back by the company.

(6) The rules of para 2, items 2, 5 and 6, and paras 4 and 5 shall apply also to buy-back of issued for that purpose preferred shares, under procedure stipulated in the charter.

(7) The restrictions on buy-back under paras 1 - 6 of this Article shall not apply to investment companies governed by the Securities, Stock Exchanges and Investment Companies Act.

#### Share Certificates

##### Article 187b (New - SG No. 63/1995)

(1) A corporation may also issue share certificates.

(2) The issue and disposal with share certificates shall be valid after entry in the book of share certificates, where shall be registered the names, addresses and other necessary data about holders of share certificates, their nominal and issue value, the quantity and numbers of shares.

(3) The issue and disposal with share certificate shall be verified by personal certificate issued by the corporation. A personal certificate may not be transferred. In the case of transfer of share certificates the receiver shall be issued a new personal certificate, and where only a part of the shares is transferred - also a new personal certificate to the transferor - for the remainder of the shares.

#### Section IV

#### Contributions

##### Obligation to Make a Contribution

##### Article 188

(1) The shareholders shall be obligated to make contributions for the shares subscribed, which shall cover the fixed by the by-laws portion of the value of the shares.

(2) Partial contributions may vary for individual shareholders, if the by-laws provide so expressly.

##### Consequences of Delaying Contributions

##### Article 189

(1) The shareholders which have not made their contributions within the specified time periods shall owe interest, unless the by-laws do not provide for liquidated damages. In case of a delayed non-monetary contribution, compensation for actual damage suffered may be claimed.

(2) Shareholders whose contributions are overdue, if they do not make the due contributions within one month of written notice to do so, shall be deemed expelled. The notice must be published in the *State Gazette* unless the transfer of the shares is subject to the consent of the company.

(3) A shareholder so expelled shall lose its shares and any contributions made. The shares of a shareholder so expelled shall be cancelled and destroyed. The company shall offer for sale new shares substituting the cancelled ones. The contributions made by the expelled shareholder shall be appropriated to the company's reserve fund.

#### Interest

##### Article 190

(1) The shareholders shall not be paid interest on contributions made, except in cases provided for in the by-laws.

(2) Where the shareholders have made partial contributions in different proportions, interest shall be due on the difference, unless the by-laws provide otherwise. Such interest shall be paid prior to the distribution of profit.

(3) The fruits derived from contributions made prior to incorporation shall be in the company's favor, unless the by-laws provide otherwise.

#### Security

##### Article 191

The by-laws may provide that the shareholders shall provide security for the portion not contributed.

#### Section V

##### Increase of the Capital Stock

##### Prerequisites

##### Article 192

(1) The capital stock may be increased by issuing new shares, by increasing the nominal value of shares already issued, or by converting debentures into shares pursuant to Article 215.

(2) The general meeting of shareholders resolution to increase the capital stock shall be adopted by a two thirds majority of the votes of the shares represented at the meeting. The by-laws may provide for a larger majority, as well as for additional conditions.

(3) Where shares of various classes exist, the resolution shall be adopted by each class at a separate meeting.

(4) Where the new shares are to be sold at a price exceeding their nominal value, the minimum sale price shall be specified in the general meeting resolution.

(5) An increase of the capital stock is admissible only after the specified by the by-laws amount has been fully paid up.

(6) (New - SG No. 63/1995) In the case of increase of capital Chapter Fourteen, Sub-section II shall apply, respectively.

##### Increase of the Capital Stock by Non-Monetary Contributions

##### Article 193

Where the capital stock is increased by non-monetary contributions, the general meeting resolution shall specify the subject of each contribution, the contributor, and the nominal value of shares given for such contribution.

##### Preferential Right of Shareholders

##### Article 194

(1) Each shareholder is entitled to acquire a part of the new shares in proportion to its share in the capital stock prior to the increase. This right shall lapse after the expiration of a period of time specified by the general meeting, which shall not be earlier than one month from the date that the resolution to increase the capital stock was published in the *State Gazette*.

**(2)** The shareholders' right under the preceding paragraph may be forfeited pursuant to a general meeting resolution passed with three quarters of the votes of the shares represented.

#### Conditional Increase of the Capital Stock

##### Article 195

The increase of the capital stock may be conditional upon the buying of the shares by certain persons at a certain price, or against debentures issued by the company.

#### Increase of the Capital Stock by the Supervisory Board (Board of Directors)

##### Article 196

The by-laws may empower the supervisory board, or the board of directors as the case may be, to increase the capital stock up to a certain nominal amount in the course of five years from the date of incorporation, by issuing new shares. A resolution to the same effect may also be passed by amending the by-laws, for a period not exceeding five years from the date of registration of the amendment.

#### Increase of the Capital Stock from Company Funds

##### Article 197

**(1)** The general meeting may resolve to increase the capital stock by partial capitalisation of profits. The resolution shall be adopted within three months from the date that the annual statement for the previous year is approved, with a majority of the votes of three quarters of the shares represented at the meeting.

**(2)** The company's balance sheet shall be presented and the fact that the increase is from the company's own funds shall be explicitly stated upon filing the resolution to increase the capital stock for registration with the court.

**(3)** The new shares shall be allocated among shareholders on a pro rata basis. Any general meeting resolution in contravention of the latter provision shall be null and void.

#### Receipt of Shares

##### Article 198

**(1)** Upon registering the increase of the capital stock pursuant to the preceding article, the supervisory board, or the board of directors as the case may be, shall, without delay, invite the shareholders to receive their shares.

**(2)** New bearer shares which have not been claimed within one year of the date that the resolution to increase the capital stock was published in the *State Gazette* shall be sold on the stock exchange. The shareholders' rights shall lapse, and moneys from the sale shall be appropriated to the company's reserve fund.

#### Section VI

#### Reducing the Capital Stock

##### Ordinary Reduction

##### Article 199

**(1)** A reduction of the capital stock shall be implemented by a general meeting resolution.

**(2)** If there are several classes of shares, resolutions of each class of shareholders adopted at separate meetings shall be necessary to reduce the capital stock.

**(3)** The resolution shall set forth the purpose of the reduction and the method by which it is to be effected.

#### Methods of Reduction

##### Article 200

**(1)** The capital stock may be reduced:

1. by reduction of the nominal value of shares;
2. by cancellation of shares.

#### Reduction of Capital Stock by Cancellation of Shares

##### Article 201

**(1)** Shares may be cancelled forcibly or after their acquisition by the company.

**(2)** Forcible cancellation of shares shall be allowed if provided for in the by-laws.

**(3)** The prerequisites for, and the method of, forcible cancellation shall be set forth in the by-laws.

#### Protection of Creditors

##### Article 202

**(1)** Creditors whose claims have arisen prior to publication of the resolution on reduction shall be entitled to require security within a six-month period.

**(2)** Payments to shareholders on account of the reduction of the capital stock may be made upon the expiration of the period set forth in the preceding paragraph, and provided that the creditors have been secured or paid.

##### Article 203

The provisions of the preceding article shall apply to security and payments to shareholders.

#### Section VII

##### Debentures

#### Procedure for Issuing Debentures

##### Article 204

**(1)** A joint stock company may issue debentures two years after its formation at the earliest, if two annual statements have been approved by the general meeting. The amount of the debenture issue may not exceed 50 per cent of paid up capital.

- (2) The requirements under paragraph 1 shall not apply to debentures secured by the State or by a bank.
- (3) Resolutions to issue debentures may be adopted only by the general meeting of shareholders.
- (4) Debentures of same issue and same nominal value shall rank *pari passu*.
- (5) (New - SG No. 63/1995) Debentures may be in the form of debenture stock and debenture certificates. The rules for shares stipulated in this Act shall apply to the issue, transfer and pledge of debenture stock and debenture certificates.

#### Requirements and Procedure for Offering

##### Article 205

- (1) (Repealed - SG No. 63/1995)
- (2) The commencement of the offering shall be advertised in the *State Gazette*.
- (3) Debenture subscribers shall be provided with the general meeting resolution on issuing the loan and the annual financial statements for the preceding two years.

#### Closing of Offering

##### Article 206

- (1) The raising of moneys and the delivery of the debentures shall be performed by a bank or specialised firm.
- (2) Subscribers shall pay the relevant moneys into a special account with a bank specified by the company. The sums in the said account may not be used prior to the announcement that the offering has closed.
- (3) The offering shall close when the advertised amount of the debenture loan has been subscribed or upon expiration of its term.
- (4) The general meeting of shareholders shall determine the terms under which the loan shall be deemed contracted, and where the value subscribed for is in excess or in deficit of the amount initially announced, the general meeting of shareholders shall cause the supervisory board, or the board of directors as the case may be, to announce the closing of the offering.
- (5) Should the offering be closed short of compliance with the terms provided for the contracting of the loan, moneys paid up shall be reimbursed to the subscribers together with such interest as accrued by the bank.

#### Issuing Preferred Debentures

##### Article 207

A company may not issue new debentures on preferential terms without the consent of the general meeting of debenture-holders.

#### First General Meeting of Debenture-Holders

##### Article 208

Within one month from the closing date of the offering the organs of the joint stock company shall call a general meeting of debenture-holders. The notice of the meeting shall be published. The meeting may transact business if not less than one tenth of the subscribed loan is represented.

#### Representation of Debenture-Holders

##### Article 209

**(1)** The holders of debentures of the same issue shall form a group for the protection of their interests before the company.

**(2)** The group shall be represented by trustees elected by the general meeting of debenture-holders. These trustees may not be more than three.

#### Limitations on Representation

##### Article 210

**(1)** The following may not be trustees as per the preceding article:

1. the debtor company;
2. other companies which hold more than one tenth of the debtor company's capital or in which the debtor company holds more than one tenth of the capital;
3. companies which have guaranteed, in part or in total, the liabilities assumed;
4. members of the supervisory board, the managing board or the board of directors of the company, or descendants, ascendants and spouses thereof;
5. persons who are prohibited by law from serving on company governing bodies;

**(2)** Trustees may be recalled by a general meeting resolution of debenture-holders.

#### Powers of the Trustee

##### Article 211

Trustees may perform acts to protect the debenture-holders' interests pursuant to resolutions of the general meeting of debenture-holders.

#### Participation of Trustees in the General Meeting of Shareholders

##### Article 212

**(1)** The trustees of debenture-holders may participate in the general meeting of shareholders without the right to vote. They may obtain information under the same terms as shareholders.

**(2)** Where decisions are adopted concerning the performance of obligations under the terms of the debenture loan, the general meeting of shareholders shall hear the opinion of the debenture-holders' trustees.

#### Remuneration of Trustees

##### Article 213

(1) The remuneration of the debenture-holders' trustees shall be fixed by the company and shall be paid on its account. Should the company fail to fix such remuneration, the general meeting of debenture-holders shall do so.

(2) Should the company object to the amount so fixed, the remuneration shall be fixed by an order of the district court upon application by the trustees.

#### General Meeting of Debenture-Holders

#### Article 214

(1) The general meeting of debenture-holders shall be called by the trustees of the debenture-holders.

(2) The general meeting may also be called upon the request of the holders of not less than 10 per cent of the debentures, or, if liquidation proceedings have commenced, upon the request of the liquidators of the company.

(3) The trustees of the debenture-holders shall be bound in duty to call the general meeting of debenture-holders upon receipt of notice from the governing bodies of the joint stock company as to:

1. a proposed amendment of the company's purposes or type, or for transformation of the company;
2. a new issue of preferred debentures.

(4) Each issue of debentures shall constitute a separate general meeting.

(5) The provisions for the general meeting of shareholders shall apply *mutatis mutandis* to the general meeting of debenture-holders.

(6) The general meeting of shareholders shall be bound in duty to review a general meeting of debenture-holders resolution.

#### Section VIII

#### Conversion of Debentures into Shares

#### Resolution on Conversion of Debentures into Shares

#### Article 215

(1) The general meeting may resolve on the issuing of convertible debentures. This type of debentures may not be issued by companies in which the State owns more than 50 per cent of the capital stock. The shareholders may subscribe preferentially such debentures under the terms which apply to a subscription for a new issue of shares.

(2) The procedure for the conversion of debentures into shares shall be specified in the general meeting resolution on the issuing.

(3) The general meeting of shareholders may lay down the terms under which holders of debentures which are not redeemable by conversion into shares may so convert them.

(4) The issue price of the converted debentures may not be lower than the nominal value of the shares which the debenture-holders would acquire by conversion.

(5) In case of reduction of the capital stock because of losses through a reduction of the number of shares or of the nominal value thereof, the rights of debenture-holders shall be reduced proportionally.

## Terms of Validity of Resolution to Issue of New Debentures

### Article 216

A resolution to issue new debentures convertible into shares shall be valid subject to approval by the general meeting of debenture-holders which have acquired the right to convert debentures into shares.

### Conversion upon Increase of Capital Stock

### Article 217

Upon adoption of a resolution to increase the capital stock, the managing board, or the board of directors as the case may be, shall determine the period within which debentures may be converted into shares. This period may not exceed three months.

### Registration of the Altered Capital Stock

### Article 218

The managing board, or the board of directors as the case may be, shall register any changes in the capital stock occurring as a result of conversion of debentures into shares.

## Section IX

### Joint Stock Company Organs

#### Types of Organs

### Article 219

The joint stock company organs shall be:

1. the general meeting of shareholders;
2. the board of directors (one\_tier system), or the supervisory board and the managing board (two\_tier system).

#### Subsection I

#### General Meeting of Shareholders

#### Composition of the General Meeting

### Article 220

**(1)** The general meeting comprises the voting shareholders. A voting shareholder may participate in a general meeting either in person or by proxy.

**(2)** The members of the board of directors, or of the supervisory board and managing board as the case may be, shall participate in general meeting proceedings without the right to vote, unless such members are shareholders.

#### Competence

### Article 221

The general meeting shall:

1. amend the by-laws;
2. resolve on increase or reduction of the capital stock;
3. resolve on transformation and dissolution of the company;
4. elect and recall the members of the board of directors, or of the supervisory board as the case may be, and determine their remuneration;
5. appoint and dismiss CPA auditors;
6. approve the annual financial statement as certified by the appointed auditor;
7. resolve on issuing of debentures;
8. appoint liquidators upon dissolution of the company, except in the event of bankruptcy;
9. relieve of responsibility the members of the supervisory board and managing board, or of the board of directors as the case may be;
10. resolve on other matters which by virtue of the law or the by-laws are in its competence.

Holding of General Meeting

Article 222

- (1)** A general meeting of shareholders shall be held at least once a year. The first general meeting may be held at any time within 18 months of incorporation.
- (2)** The general meeting shall elect a chairman and a secretary of the meeting, unless the by-laws provide otherwise.

Convening the General Meeting

Article 223

- (1)** The general meeting shall be convened by the board of directors, or by the managing board as the case may be. A general meeting may also be convened by the supervisory board, as well as on the request of the owners of not less than one tenth of the stock.
- (2)** Should the request of the owners of not less than one tenth of the stock not be granted within one month, the district court may convene the general meeting or authorise the shareholders which have so requested it, or a representative thereof, to convene the meeting.
- (3)** The general meeting shall be convened by notice in the *State Gazette*. Registered shareholders shall be notified in writing.
- (4)** As a minimum the notice shall state:
  1. the trade name and seat of the company;
  2. the place, date and hour of the meeting;

3. the type of general meeting;
4. the formalities, if provided for in the by-laws, to be satisfied for attendance and exercise of the right to vote;
5. the agenda and business to be transacted, and the draft resolutions.

(5) The time period from the publication or, respectively, mailing of the notices, to the opening of the meeting shall not be less than 30 days.

#### Right to Information

##### Article 224

All papers relative to the agenda of a general meeting must be placed at the disposal of the shareholders not later than the date of publication or mailing of the notice thereof. Such papers shall be available free of charge to any shareholder on demand.

#### List of Participants

##### Article 225

A list shall be drawn up of the shareholders or proxies present at the meeting, and the respective number of shares owned or represented. The shareholders or proxies shall certify their presence at the meeting by signature. The list shall be authenticated by the chairman and the secretary of the meeting.

#### Proxy

##### Article 226

A shareholder shall have the right to attend a general meeting by proxy executed in writing.

#### Quorum of Shareholders

##### Article 227

The by-laws may provide for a quorum of the shareholders. In the absence of such quorum a new meeting date shall be set which shall not be later than one month, and the general meeting at such latter date shall be valid regardless of the shares represented. The date of such second meeting may be stated in the original notice.

#### Voting

##### Article 228

(1) Voting rights shall originate upon payment of the contribution, unless otherwise provided in the by-laws.

(2) Where a proposed resolution affects the rights of a class of shareholders, each class shall vote separately.

#### Conflict of Interest

##### Article 229

A shareholder may not, either in person or by proxy, vote on:

1. actions brought by the company against it;
2. proceedings to realise the liability of such shareholder to the company.

Majority

Article 230

**(1)** General meeting resolutions shall be passed by majority vote of the shares represented, unless the law or the by-laws provide otherwise.

**(2)** Resolutions under 221, items 1\_3, shall require a majority of at least two thirds of the shares represented. The by-laws may provide for another majority for these cases.

Resolutions

Article 231

**(1)** The general meeting may not pass resolutions on matters of which there has been no notification or advertisement pursuant to Article 223, unless all shareholders are present or are represented at the meeting and no one objects to the submission of such matters to debate.

**(2)** General meeting resolutions shall take effect immediately, unless such effect is deferred.

**(3)** Resolutions to amend the by-laws, increase or reduce the capital stock, transform or dissolve the company, appoint or recall the directors, as well as to appoint liquidators shall be registered in the commercial register and shall take effect upon publication of the relevant entry.

Minutes

Article 232

**(1)** The minutes of a general meeting shall be kept in a special book and shall comprise:

1. the place, date and hour of the meeting;
2. the names of the chairman and the secretary, and of the vote tellers;
3. the attendance of the managing and the supervisory board, and of other persons which are not shareholders;
4. the motions made on the substance of the debate;
5. the votes taken and the results thereof;
6. the objections made.

**(2)** The minutes of the meeting shall be signed by the chairman and the secretary, and by the vote tellers.

**(3)** Attached to the minutes shall be:

1. the list of participants;

2. the documents relative to the convening of the meeting.

(4) The minutes and the documents attached thereto shall be kept on file for not less than five years. Any shareholder shall have the right to inspect the file on demand.

## Subsection II

### General Provisions for the Two Systems of Administration

#### Terms of Office

##### Article 233

**(1)** The members of the board of directors, the supervisory board and managing board shall be elected for not more than a five\_year term of office, unless a shorter term is provided for in the by-laws.

**(2)** The members of the first board of directors, or of the first supervisory board as the case may be, shall be elected for not more than a three\_year term of office.

**(3)** Directors may be re\_elected for any number of terms.

#### Directors

##### Article 234

**(1)** A director may be any natural person possessing capacity. Where the by-laws so provide, a director may be a legal person. In this case the legal person shall designate a representative for performance of its duties on the board. The legal person shall bear unlimited liability and shall be liable jointly and severally with the other directors for the liabilities arising from acts of its representative.

**(2)** A person may not be a director, if it:

1. has been a member of an executive or controlling body, or has been a general partner in a company, where such company was dissolved on grounds of bankruptcy and there remain unsatisfied creditors;

2. is a spouse or relative in direct or collateral lineage to the third degree, in\_laws included, of another supervisory board member;

3. does not meet other requirements provided for in the by-laws.

#### Representative Powers

##### Article 235

**(1)** The members of the board of directors, or of the managing board as the case may be, shall represent the company collectively, unless otherwise provided by the by-laws.

**(2)** The board of directors, or, as the case may be, the managing board subject to approval by the supervisory board, may delegate authority to one or several of its members to represent the company. The authority so delegated may at any time be revoked.

**(3)** The names of the authorised representatives shall be registered in the commercial register and published in the *State Gazette*. For registration they shall present notarized signatures.

**(4)** Restrictions on the mandate of the persons authorized pursuant to the preceding paragraphs shall not be binding upon *bona fide* third parties.

**(5)** The authorisation and the revocation thereof shall be binding upon *bona fide* third parties after registration and publication.

#### Special Requirements for Validity of Some Resolutions

##### Article 236

**(1)** The managing board may pass resolutions with the prior approval of the supervisory board or with a unanimous resolution of the board of directors, on:

1. closing down or transfer of enterprises or of substantial parts thereof;
2. substantially altering the company's business;
3. substantial organisational changes;
4. long\_term cooperation which is material to the company or the termination of such cooperation;
5. establishment of a branch.

**(2)** Objections that such acts have been performed in contravention of the preceding paragraph shall not be binding upon *bona fide* third parties.

#### Rights and Obligations

##### Article 237

**(1)** The directors shall have equal rights and obligations, regardless of:

1. any internal division of functions among the directors;
2. the provisions which confer managerial authority to officers.

**(2)** The directors must perform their functions in the interest of the company and not disclose the company's secrets even after they are no longer directors.

#### Quorum and Majority

##### Article 238

**(1)** The boards may pass resolutions if at least half the directors are present, whether in person or represented by another director. No director present may represent more than one absent director.

**(2)** Resolutions shall be passed by a simple majority, unless otherwise provided by the by-laws.

**(3)** The by-laws may provide that the board may pass resolutions *in absentia* if all directors have stated in writing their approval for the resolution.

#### Minutes

##### Article 239

Minutes shall be kept of all resolutions of the managing board, the supervisory board and the board of directors which shall be signed by all present members of the respective board.

## Liability

### Article 240

**(1)** The directors shall deposit a guarantee for their management of the affairs of the company in an amount determined by the general meeting, but not less than their three month gross income. The guarantee may be in the form of shares or debentures deposited with the company.

**(2)** The directors shall be liable jointly and severally before the company for any damages caused through a fault of theirs.

**(3)** Any director may be held harmless if it is established that it has no fault for the damage suffered by the company

### Subsection III

## Two Tier System

### Managing Board

#### Article 241

**(1)** The joint stock company shall be managed by a managing board which shall act under the control of a supervisory board.

**(2)** The members of the managing board shall be appointed by the supervisory board, which shall determine their remuneration and shall have the right to recall them at any moment.

**(3)** No person may simultaneously serve on both the managing board and the supervisory board of one company.

**(4)** The number of members of the managing board shall be determined by the by-laws, but may not exceed nine.

**(5)** The rules of procedure of the managing board shall be approved by the supervisory board.

### Supervisory Board

#### Article 242

**(1)** The supervisory board may not take part in the management of the company. The supervisory board shall represent the company only in its relationship with the managing board.

**(2)** The members of the supervisory board shall be appointed by the general meeting of shareholders. Their number may be from three to seven.

**(3)** The supervisory board shall adopt its own rules of procedure and shall appoint a chairman and vice chairman from among its members.

**(4)** The chairman shall call meetings of the supervisory board on his own initiative, as well as upon request by the members of the supervisory board or the members of the managing board.

## Reporting and Supervision

#### Article 243

- (1) The managing board shall report on its activity to the supervisory board at least once every three months.
- (2) The managing board shall immediately inform the chairman of the supervisory board of all circumstances which have arisen which are material to the company.
- (3) The supervisory board may at any time require that the managing board provide information or a report on any matter concerning the company.
- (4) The supervisory board may carry out any necessary investigations in performance of its duties. For purposes of such investigation it may employ the services of experts.

#### Subsection IV

##### One Tier System

##### Board of Directors

#### Article 244

- (1) The company shall be managed and represented by a board of directors. The board of directors shall consist of minimum three and maximum nine directors.
- (2) The board of directors shall adopt its own rules of procedure and shall elect a chairman and vice chairman from among its members.
- (3) The board of directors shall meet regularly not less than once every three months to discuss the company's state of affairs and prospects for development.
- (4) The management of the company shall be delegated by the board of directors to one or several directors, who shall be termed officers. The officers shall be a minority of the directors and may at any time be replaced.
- (5) Each of the officers must immediately inform the chairman of the board of all circumstances which have arisen which are material to the company.
- (6) Each director may request that the chairman call a meeting to discuss particular matters.

#### Section X

##### Annual Closing of Accounts and Distribution of Profits

##### Documents

#### Article 245

Each year not later than the last day of February the board of directors, or the managing board as the case may be, shall draw up the annual report and the financial statement for the previous calendar year, and shall submit these to the certified public accountants appointed by the general meeting.

##### Reserve Fund

#### Article 246

**(1)** The company shall set up a reserve fund.

**(2)** The sources of financing the reserve fund shall be:

1. At least one tenth of profit which shall be set aside until the fund's assets reach one tenth or more of the company's capital stock or such other larger proportion as the by-laws may provide;
2. the proceeds obtained in excess of the nominal value of shares and debentures upon their issuing;
3. the total of the additional payments made by the shareholders for preferences given them with shares;
4. other sources provided for by the by-laws or by a general meeting resolution.

**(3)** Disbursements from the reserve fund may be made only for:

1. covering losses for the current year;
2. covering losses for the previous year.

**(4)** When the assets of the reserve fund exceed one tenth of the company's capital stock, or any other larger proportion thereof as may be provided for in the by-laws, the excess amount may be used for increase of the capital stock.

#### Contents of Annual Report

##### Article 247

The annual report shall comprise a review of the company's operations over the year and its current state of affairs, and the accounting notes to the annual financial statement.

#### Section XI

##### Annual Audit

##### Object and Scope of Audit

##### Article 248

**(1)** The annual financial statement shall be audited by the certified public accountants appointed by the general meeting.

**(2)** The audit shall have as its object to ascertain whether the provisions of the Accountancy Act and the by-laws on annual closing have been observed.

##### Appointment and Responsibility of Certified Public Accountants

##### Article 249

**(1)** Where the general meeting has failed by the end of the calendar year to appoint Certified Public Accountants, the Court shall, upon request of the board of directors, or of the managing or the supervisory board as the case may be, or of an individual shareholder appoint Certified Public Accountants.

(2) The Certified Public Accountants shall assume responsibility for the *bona fide* and unbiased performance of audit, and non\_disclosure of secrets.

#### Report of Certified Public Accountants

##### Article 250

Upon receipt of the report of the Certified Public Accountants, the managing board shall submit it to the supervisory board, together with the annual financial statement and annual report. The managing board shall also submit the draft resolution on distribution of profit to be discussed by the general meeting.

#### Approval of Annual Closing of Accounts

##### Article 251

(1) The supervisory board shall verify the annual financial statement, the annual report and the draft on distribution of profit, and shall, upon approval thereof, resolve to call a regular general meeting of shareholders.

(2) In the one\_tier system the draft on distribution of profit shall be prepared by the board of directors, which shall then convene the general meeting.

(3) The annual financial statement may not be approved by the general meeting without an audit by Certified Public Accountants.

(4) The approved by the general meeting annual financial statement shall be published by the managing board, or by the board of directors as the case may be.

#### Section XII

##### Dissolution

##### Grounds for Dissolution

##### Article 252

A joint stock company shall be dissolved:

1. by resolution of the general meeting of shareholders;
2. upon the expiration of the time period for which it was formed. The general meeting may pass a resolution to dissolve the company prior to the expiration of the said period;
3. upon a declaration of bankruptcy;
4. by a ruling of the court with which the company is registered upon an action brought by the public attorney where the company pursues objectives prohibited by law;
5. when the capital drops below the minimum required by law for one year. If within this period the general meeting fails to pass a resolution to dissolve the company, the dissolution shall be effected pursuant to item 4;
6. upon the occurring of the grounds provided for in the by-laws.

#### CHAPTER FIFTEEN

## PARTNERSHIP LIMITED BY SHARES

### Partnership Limited by Shares Defined

#### Article 253

**(1)** A partnership limited by shares shall be formed by articles of incorporation, whereby limited partners are issued with shares against their contributions to the capital. The limited partners shall be not less than three.

**(2)** The provisions for the joint stock company shall apply *mutatis mutandis* to the partnership limited by shares, unless this chapter provides otherwise.

**(3)** The trade name of a partnership limited by shares shall include the extension, 'Komanditno druzhestvo s aktsii' [Partnership limited by shares], or the abbreviation 'KDA'.

### Founders

#### Article 254

**(1)** The partnership limited by shares shall be formed by the general partners. They shall have the right to select shareholders among subscribers.

**(2)** The general partners shall draw up the by-laws and shall convene the constituent meeting.

### Contributions

#### Article 255

**(1)** The amount of the partners' contributions shall be specified by the by-laws.

### Partnership Organs

#### Article 256

The organs of the partnership limited by shares shall be those set forth by this Act for a one\_tier system joint stock company.

### General Meeting

#### Article 257

**(1)** Only limited partners shall have the right to vote in the general meeting. General partners, even when they own shares, shall take part in the meeting in a consultative capacity.

**(2)** The powers of the general meeting shall be set forth in the by-laws.

**(3)** The general meeting shall submit to consideration and resolve on the requests of limited partners for auditing the activities of the partnership.

### Board of Directors

#### Article 258

The board of directors shall consist of the general partners.

## Adoption and Amendment of the By-Laws

### Article 259

**(1)** The by-laws shall be adopted and amended, and the partnership shall be dissolved, subject to the consent of the general partners.

**(2)** The partnership shall not be dissolved with the death or bankruptcy of a limited partner, unless the by-laws provide otherwise.

## Liquidation Proceeds

### Article 260

The liquidation proceeds of each partner shall be proportionate to its contributions in the partnership.

## CHAPTER SIXTEEN

### TRANSFORMATION OF COMPANIES

#### Section I

##### General Provisions

##### Admitting Transformation

### Article 261

**(1)** Any company may be transformed into another type of company, may merge into another company, split into several companies, split off from itself another company or participate in the formation of a new company through consolidation.

**(2)** The companies shall be liable jointly and severally for obligations arising from the split or splitting off.

**(3)** A transformation pursuant to paragraph 1 shall be void if it aims to harm third parties.

##### Procedure for Transformation

### Article 262

**(1)** A company shall be transformed subject to consent by the partners, or a general meeting resolution as the case may be. The consent, or resolution, shall be registered in the commercial register of the seats of the respective companies. The application for registration shall be filed within two months of the resolution.

**(2)** The companies shall be liable jointly and severally for all obligations arising prior to the split or splitting off.

**(3)** Upon transformation, the deeds required for the company which is newly formed and the company which is being dissolved shall be filed with the application for registration.

##### Creditors' Security

### Article 263

**(1)** The resolution on consolidation or merger shall be published. Within six months from the date of publication the creditors of the companies concerned may claim payment or security in accordance with their rights. The assets of the dissolved company which have been transferred to the new company, or to the company into which the former company has merged as the case may be, shall be managed separately until the expiration of the six month time period.

**(2)** The general partners in dissolved companies shall remain liable to creditors for obligations assumed prior to the transformation.

**(3)** The managers of the new company shall be liable to creditors for the separate management of the assets pursuant to paragraph 1.

## Section II

### Special Provisions

#### Procedure for Transformation of a Joint Stock Company

##### Article 264

A resolution to transform a joint stock company into another type of company shall be valid if not less than two years have elapsed from its formation and the financial statements for the two years have been approved. The said resolution shall be passed with a two thirds majority of the shares represented. In determining the majority, the company's shares and the non\_voting shares shall be deducted from the capital stock. The by-laws may provide for a greater majority, as well as for other requirements.

#### Transformation of a Joint Stock Company into a Limited Liability Company

##### Article 265

Where a joint stock company is transformed into a limited liability company, each shareholder shall exchange its stock for an equivalent share in the registered capital.

## CHAPTER SEVENTEEN

### LIQUIDATION

#### Commencement of Liquidation

##### Article 266

**(1)** Liquidation shall be carried out after the dissolution of a company.

**(2)** The liquidators shall be registered in the commercial register with their specimen signatures.

**(3)** The Court of registration may, where important reasons exist, appoint or dismiss liquidators on application by the public attorney or the partners, or, respectively, by the shareholders which own at least one twentieth of the stock.

#### Notice to Creditors

##### Article 267

Upon declaring the dissolution of the company the liquidators must invite its creditors to make their claims. The notice shall be in writing and delivered to known creditors, and shall also be published.

## Duties of Liquidators

### Article 268

- (1)** A liquidator shall be obliged to consummate pending transactions, to collect payments due, to convert the company's assets into cash and satisfy its creditors. A liquidator may not enter into new transactions unless so warranted for the purposes of liquidation.
- (2)** A liquidator may, subject to the consent of the partners or, respectively, the shareholders, and the consent of the creditors, transfer to them particular items of the assets under liquidation, provided that this does not prejudice the rights of the remaining partners and creditors.
- (3)** The liquidators must inform the tax administration of the liquidation which has commenced.

## Representation

### Article 269

- (1)** The liquidators shall represent the company and shall have the rights and obligations of its executive organ.
- (2)** The liquidators may represent a company only jointly. A single liquidator may accept legal statements addressed to the company.

## Opening Balance Sheet and Report

### Article 270

- (1)** The liquidators shall draw up a balance sheet as of the moment of dissolution of the company, and explanatory notes thereto. At the end of each year the liquidators shall close accounts and present a financial statement and annual report to the governing body.
- (2)** The governing body shall resolve on approval of the opening balance sheet, the annual closing of accounts, and on holding the liquidators harmless.

## Distribution of Assets

### Article 271

Upon satisfaction of the creditors, the remaining assets shall be distributed among the partners, or among the shareholders as the case may be.

## Protection of Creditors

### Article 272

- (1)** The company's assets shall not be distributed before one year has passed from the date that the notice to the creditors was published.
- (2)** Should a creditor duly notified not assert its claim, the sum owed to it shall be deposited in a bank account in its name.
- (3)** Where a liability is disputed, assets shall not be distributed until the creditor concerned has been secured.

## Closing of Liquidation Proceedings

## Article 273

**(1)** When all liabilities have been settled and the remaining assets distributed, the liquidator shall apply for deletion of the company from the Commercial Register.

**(2)** Should at some later time the need arise for further liquidation proceedings, the court shall, on application by the person concerned, appoint liquidators, either the previous or new ones.

## Continuation of a Company after Dissolution

## Article 274

**(1)** When a company is dissolved due to expiration of the specified time period or upon a resolution of the competent company organs, they may decide to continue its activities, unless the distribution of assets has commenced.

**(2)** A resolution pursuant to paragraph 1 shall be passed:

1. in case of a joint stock company, by a majority of at least three quarters of the shares represented;
2. in case of another company, unanimously.

**(3)** The liquidators shall file the resolution to continue the company for registration in the Commercial Register.

## CHAPTER EIGHTEEN

### COMMERCIAL GROUPS

#### Section I

##### Consortium

##### Definition

#### Article 275

A consortium is a contractual grouping of merchants for carrying out specified activities.

#### Applicable Provisions

#### Article 276

The respective rules either for partnerships under civil law or for the company in the form of which a consortium has been organized shall apply to consortia.

#### Section II

##### Holding Company

##### Definition

#### Article 277

**(1)** A holding company shall be a joint stock company, a partnership limited by shares or a limited liability company the purpose of which is to participate under any form in other companies or in their management, regardless of whether it carries on manufacturing or commercial activities of its own.

**(2)** At least 25 percent of the capital stock of a holding company must be invested directly in subsidiary companies.

**(3)** A subsidiary company is a company in which a holding company owns or controls, directly or indirectly, at least 25 per cent of the stocks or shares and is in a position to appoint, directly or indirectly, a majority of the directors.

#### Purposes

##### Article 278

**(1)** The purposes for which a holding company is set up may be:

1. acquisition, management, valuation and sale of interest in Bulgarian or foreign companies;
2. acquisition, management and sale of debentures;
3. acquisition, valuation and sale of patents, assigning licences for the use of patents of companies in which the holding company owns an interest;
4. financing of companies in which the holding company owns an interest.

**(2)** A holding company may not:

1. participate in a partnership which is not a legal person;
2. acquire licences which are not intended for use by the companies controlled by it;
3. acquire real property which is not required by its needs. The acquisition of stock in real estate companies is permitted.

#### Taxation of Holding Activities

##### Article 279

The Ministry of Finance shall specify the companies which may enjoy the special taxation regime for holding activities.

#### Credits Given by Holding Companies

##### Article 280

**(1)** A holding company may extend loans only to companies in which it participates directly or which it controls.

**(2)** The amount of the extended loans may not exceed ten times the capital stock of the holding company.

**(3)** The amount of the deposits of subsidiary companies and enterprises in a holding company may not exceed three times the amount of the capital stock.

## CHAPTER NINETEEN

### Applicable Law

#### Law Applicable to Sole Proprietors

##### Article 281

The legal status of a sole proprietor shall be governed by the law of the country in which he is registered.

#### Law Applicable to Companies

##### Article 282

**(1)** The incorporation, transformation and dissolution of companies, the manner of their representation, as well as the rights and obligations of the partners shall be governed by the law of the country in which the respective company is registered.

**(2)** If a company is registered in more than one country, the law of the country in which, according to the by-laws, the company's place of management is situated shall apply.

**(3)** For branches of companies, the law of registration of the branch shall apply.

#### Law Applicable to Agency

##### Article 283

The agency contract shall be governed by the law of the country in which the agent carries on its activities, regardless of the place where the contract was made.

## CHAPTER TWENTY

### ADMINISTRATIVE PENAL PROVISIONS

#### Violations and Fines

##### Article 284

**(1)** A fine of at least 5,000 leva, but not exceeding 50,000 leva, shall be imposed on any person under an obligation pursuant to this Act which does not apply for registration within the prescribed time periods or does not present documents or signatures provided for in this Act.

**(2)** If, after a fine has been imposed, the person under an obligation does not apply for registration or does not present the documents or signatures within the time period determined by the court, further fines pursuant to paragraph 1 shall be imposed upon such person until the acts are performed.

**(3)** Fines pursuant to the previous paragraphs shall also be imposed upon officials who, when they are obliged to do so:

1. have not informed officially the respective district court of the occurrence of a circumstance which is subject to registration;
2. do not undertake the necessary action for registration.

(4) Fines shall be imposed by the district court. The court's resolution may be appealed with a particular appeal.

#### Article 285

(1) For non-performance of the obligation under Article 7, paragraph 3 a fine or, respectively, a financial sanction, equal to 50,000 leva shall be imposed on the merchant.

(2) The statements for establishing the violations shall be drawn up by the mayors of communities, and the penal orders shall be issued by the mayors of municipalities or persons designated by them.

(3) The establishment of the violations, the issuing, appeal and enforcement of the penal orders shall be done pursuant to the Administrative Violations and Sanctions Act.

### **P A R T F O U R**

### **B A N K R U P T C Y**

#### CHAPTER THIRTY FOUR

#### **GENERAL**

##### Section I

##### General Provisions

##### *Objective of Proceedings*

#### Article 607

(1) Bankruptcy proceedings shall be aimed at providing fair satisfaction of creditors and opportunities for recovery of debtor's enterprise.

(2) Bankruptcy proceedings shall take into consideration the interests of the creditors, the debtor and his employees.

##### Insolvency

#### Article 608

(1) Bankruptcy proceedings shall be instituted for traders who are insolvent.

(2) Insolvent shall be deemed traders who are unable to effect executable and incontestable money obligation under a commercial deal.

(3) Insolvency shall be presumed:

1. where the debtor has petitioned the court to institute bankruptcy proceedings;
2. upon discontinuance of payments;
3. where a limited liability company and a joint stock company are in a state of overindebtedness.

##### Concealed Partnership

## Article 609

Bankruptcy proceedings shall be instituted also for persons who conceal commercial activity through insolvent debtors.

### Instituting Bankruptcy Proceedings for Partner with Unlimited Liability

## Article 610

Concurrently with instituting bankruptcy proceedings for insolvent companies, bankruptcy proceedings shall be instituted, also for unlimited liability partners therein.

### Instituting Bankruptcy Proceedings Upon Death of Sole Proprietors or Upon Dissolution of Companies

## Article 611

(1) Bankruptcy proceedings shall also be instituted for deceased sole proprietors or partners with unlimited liability, as well as for dissolved companies, provided prior to the death thereof, or the dissolution of the company, respectively, they have been insolvent.

(2) Bankruptcy proceedings shall also be instituted for insolvent companies in liquidation.

(3) For cases such as under paras (1) and (2) the request to institute bankruptcy proceedings may be submitted within one year following the death of the sole proprietor, or the dissolution of the company, respectively.

### *Inapplicability of Bankruptcy*

## Article 612

(1) No bankruptcy proceedings shall be instituted for traders - public enterprises, exercising Government monopoly or established by special act, as well as for banks and insurance companies.

(2) The bankruptcy proceedings shall be performed under terms and procedures, settled by a separate act. The provisions of this section shall apply to the extent that the separate act does not provide otherwise.

### *Court of Jurisdiction*

## Article 613

Courts of jurisdiction over bankruptcy shall be the district courts with jurisdiction over the registered head office of the traders.

### *Bankruptcy Estate*

## Article 614

(1) The bankruptcy estate shall comprise:

1. property rights of the debtor as of the date of ruling to institute bankruptcy proceedings;
2. property rights of the debtor, acquired after the date of ruling to institute bankruptcy proceedings.

(2) The property of the debtor - sole proprietor or partner with unlimited liability - shall also include:

1. chattels, rights on chattels and money deposits that are joint matrimonial property, included in the enterprise thereof;
2. one half of the chattels, rights on chattels and money deposits that are joint matrimonial property, not included in the enterprise thereof.

(3) Debtor properties not subject to forfeit shall not be included in the bankruptcy estate.

Nullity of Termination of Joint Matrimonial Property

#### **Article 615**

Termination or division of joint matrimonial property, as well as settlement for a larger share, shall be null and void in respect to the bankruptcy estate, should they have been effected within six months prior to the initial date of the insolvency, till the termination of bankruptcy proceedings.

Bankruptcy Creditors

#### **Article 616**

(1) The bankruptcy estate shall be used to satisfy all creditors of the debtor for commercial and non-commercial receivables that have occurred prior to the date of ruling on declaration of bankruptcy.

(2) Receivables ensuing from:

1. legitimate or contract interest on unsecured receivables, due after the date of ruling to institute bankruptcy proceedings;
2. credits extended to the debtor by partners;
3. gratuitous deal.

(3) Foreign creditors shall have equal rights with domestic creditors in respect of bankruptcy proceedings.

Executability of Obligations

#### **Article 617**

(1) All obligations of the debtor in cash or in kind shall be considered executable as from the date of ruling of the bankruptcy declaration.

(2) Obligations in kind shall be transformed into obligations in cash at the respective market value as of the date of ruling on declaration of bankruptcy.

Retention of Securities

#### **Article 618**

(1) In the course of bankruptcy proceedings creditors shall retain their rights on securities provided.

(2) The value of chattels delivered as security shall be estimated as of the date of ruling to institute bankruptcy proceedings.

## Summons

### **Article 619**

(1) Summons shall be handed over to the debtor and his creditors, entered in the respective court register, at the registered addresses. Where they have changed address without fulfilling their obligation to enter such circumstances in the register, all summonses and papers shall be attached to the case file and considered duly delivered.

(2) Creditors with registered address abroad and without address in this country shall be summoned at the address known abroad, should the address be unknown summons shall be issued to such creditor once by means of the State Gazette.

## Fees and Expenses

### **Article 620**

(1) No preliminary state fees shall be collected for petition to institute bankruptcy proceedings. Such fees shall be collected from the bankruptcy estate prior to distribution of properties.

(2) Court cases instituted to complete bankruptcy estate shall be exempted from state fees, provided the court acknowledges there are no sufficient funds for the payment thereof.

(3) No state fees shall be collected for entry in the court register of circumstances related to bankruptcy, as well as for entry and deletion of general injunction.

## Subsidiary Application

### **Article 621**

Inasmuch as this Part contains no special provisions, the respective provisions of the Civil Procedure Code shall apply.

## Section II

### **Entry and Promulgation**

#### Entry and Promulgation of Court Rulings

### **Article 622**

Court rulings pursuant to Articles 630, 632, 641, 707, 709, para (1), Articles 710, 735 and 744, para (1), shall be entered into the respective court register and promulgated in the State Gazette.

#### Entry and Promulgation of Circumstances Related to the Receiver in Bankruptcy

### **Article 623**

The name and the address of the nominated Receiver in bankruptcy shall be entered into the respective court register and promulgated in the State Gazette.

#### Term for Promulgation

### **Article 624**

The promulgation pursuant to Articles 622 and 623 shall be effected by request of the court within seven (7) days as from the entry into the court register.

## CHAPTER THIRTY FIVE

### INSTITUTING BANKRUPTCY PROCEEDINGS

#### Section I

#### Start of Proceedings

#### Instituting Proceedings

##### **Article 625**

Bankruptcy proceedings shall be instituted on the grounds of a petition in writing submitted to the court by the debtor or his creditors under commercial deal.

#### Obligation for Declaration

##### **Article 626**

(1) Any debtor who becomes insolvent shall be obliged to request within fifteen (15) days institution of bankruptcy proceedings.

(2) The petition pursuant to para (1) shall be submitted by the debtor, his heir, management body of a company or partner with unlimited liability.

(3) Procurators shall be obliged to inform traders in writing within seven (7) days about the insolvency.

(4) Should the petition be submitted by an agent, explicit power of attorney shall be required.

#### Liability

##### **Article 627**

Should persons fail to comply to their obligation for declaration pursuant to Article 626, para (2), they shall be jointly liable before creditors for damages caused by such delay.

#### Annexes to the Petition

##### **Article 628**

(1) Debtors shall enclose with the petition:

1. transcript of the last certified by certified public accountant annual accountancy report and balance sheet as of the date of submission of petition, provided the merchant is obliged by law to prepare such documents;
2. inventory and evaluation of assets and liabilities as of the date of submission of petition;
3. list of creditors, indicating the addresses, types, amounts and securities for receivables thereof;
4. inventory of personal properties and properties that are joint matrimonial property - for sole proprietors and partners with unlimited liability.

(2) Creditors shall produce with their petition the evidence in writing and indicate any other evidence for debtor's insolvency.

(3) With their petitions debtors or creditors may also propose a plan pursuant to Article 696.

#### Consideration of Petitions

#### **Article 629**

(1) Petitions to institute bankruptcy proceedings, submitted by debtors, shall be considered immediately by the court *in camera*.

(2) Petitions to institute bankruptcy proceedings, submitted by creditors, shall be considered by the court within fourteen (14) days.

#### Section II

#### Issue of a Ruling

#### Ruling on Institution of Bankruptcy Proceedings

#### **Article 630**

(1) Where the court has established insolvency, by its ruling it shall:

1. declare insolvency and determine the initial date thereof;
2. institute bankruptcy proceedings;
3. assign temporary Receiver in bankruptcy;
4. allow for provision of security by means of imposing distraint, injunction of other security measures.
5. fix a date for the first meeting of creditors, not later than one month following the issue of the ruling.

(2) Where it is obvious that further continuance of the activity could damage the bankruptcy estate, the court may, upon request by the debtor, the Receiver in bankruptcy or creditor, declare the debtor bankrupt and terminate his activity concurrently with the ruling to institute bankruptcy proceedings or later, notwithstanding whether the term for proposing a plan pursuant to Article 696 has expired or not.

(3) The ruling on instituting bankruptcy proceedings shall be effective in respect of all.

#### Ruling to Reject the Petition

#### **Article 631**

The court shall traverse the petition, should it establish that the debtor's distress is temporary and that he disposes of sufficient assets to cover the obligations, safeguarding the creditors' interests.

#### Ruling to Terminate Proceedings

#### **Article 632**

(1) Where the available assets is insufficient to cover expenses related to the bankruptcy proceedings, the court shall declare the insolvency, determine the initial date thereof, declare the debtor bankrupt and terminate the proceedings, unless any person concerned pays in advance the necessary amount.

(2) The amount under para (1) shall be reimbursed, provided the bankruptcy estate increases sufficiently.

Appeal of Rulings

#### **Article 633**

Rulings pursuant to Articles 630, 631 and 632 may be appealed within seven (7) days as from the date of promulgation in the State Gazette.

Immediate Execution

#### **Article 634**

Rulings pursuant to Article 630 shall be executed immediately.

CHAPTER THIRTY SIX

### **EFFECT OF RULING ON INSTITUTION OF BANKRUPTCY PROCEEDINGS**

Restriction of Rights of Insolvent Debtor

#### **Article 635**

(1) Upon institution of bankruptcy proceedings the debtor shall continue his activities under the supervision of the Receiver in bankruptcy. He may conclude new deals with preliminary approval of the Receiver in bankruptcy only, and in compliance with the measures, determined by the ruling on institution of bankruptcy proceedings.

(2) The court may deprive the debtor of the right to manage and dispose of his assets and to grant this right to the Receiver in bankruptcy, should it establish that by his actions the debtor jeopardises the interests of creditors.

Execution of Money Obligations

#### **Article 636**

(1) The execution of obligations to the debtor shall be taken over by the Receiver in bankruptcy as from the date of promulgation of the ruling on institution of bankruptcy proceedings.

(2) The execution of obligation effected to the debtor within the period as from the initial date of insolvency through the date of promulgation of the ruling on bankruptcy proceedings shall be considered null and void, should the debtor under such execution has known about the insolvency.

Suspension of Court Proceedings

#### **Article 637**

(1) Upon institution of bankruptcy proceedings, court and arbitration proceedings for assets civil and commercial cases against the debtor shall be suspended.

(2) Suspended proceedings shall be terminated, provided the receivable is accepted, or resumed and continued with the participation of the Receiver in bankruptcy, should the receivable be not accepted.

#### Suspension of Execution Proceedings

##### **Article 638**

(1) Upon institution of bankruptcy proceedings any execution proceedings against assets included in the bankruptcy estate shall be suspended.

(2) Where within the period as from the suspension pursuant to para (1) through the date of promulgation of the ruling on institution of bankruptcy proceedings payments have been effected to claimants, the moneys paid shall be returned to the bankruptcy estate.

(3) Where actions have been undertaken in favour of secured creditors for sale of pledged or mortgaged articles, the court may allow the proceedings to continue should danger to jeopardise the creditor's interests exists.

#### Creditors After the Ruling on Institution of Bankruptcy Proceedings

##### **Article 639**

(1) Creditors of receivables that have occurred after the date of the ruling on institution of bankruptcy proceedings shall receive payment on maturity date, and where they have not received payment on maturity date or prior to the date of the ruling declaring the debtor bankrupt they shall be satisfied pursuant to the procedure under Article 722, para (1).

(2) Creditors pursuant to para (1) may obtain security for their receivables from the bankruptcy estate.

#### Cooperation of Debtors

##### **Article 640**

Debtors shall be obliged to provide:

1. Adequate information related to the activities of their enterprises and their properties;
2. list of payments in cash or by means of bank transfer, that exceed twenty times the amount of minimum wage in this country and that have been effected within three months prior to the initial date of insolvency;
3. list of payments effected by the debtor to persons related thereto, for a period of one year prior to the initial date of insolvency.

#### Effect of Repeal of Ruling on Institution of Bankruptcy Proceedings

##### **Article 641**

The repeal of the ruling on institution of bankruptcy proceedings shall remove imposed injunctions and distrains, restore the authority of the debtor and terminate the authority of the Receiver in bankruptcy.

#### Security Measures

##### **Article 642**

Upon request of the Receiver in bankruptcy, the debtor or any creditor, the court may allow measures provided by law, securing the available assets of the debtor.

## CHAPTER THIRTY SEVEN

### **COMPLETION OF BANKRUPTCY ESTATE. SAFEGUARDING MEASURES**

#### Section I

Completion of bankruptcy estate

Collection of Capital not Paid In

#### **Article 643**

Shares or contributions not paid in or not deposited by limited liability partners, shall be collected by the Receiver in bankruptcy to complete the bankruptcy estate.

Termination of Contract

#### **Article 644**

(1) The Receiver in bankruptcy may terminate any contract to which the debtor is a party, provided it has not been executed wholly or in part.

(2) The Receiver in bankruptcy shall send a fifteen (15) days advance notice for termination of contract.

(3) Upon request of the counterpart the Receiver in bankruptcy shall respond within fifteen (15) days whether he shall keep the contract in effect or terminate it. Should there be no response, the contract shall be considered terminated.

(4) Upon termination of contract the counterpart shall be entitled to compensation for damages incurred.

(5) Keeping a contract under which the debtor is to effect regular payments, shall not bind the Receiver in bankruptcy to effect payments that have been overdue prior to the date of ruling on institution of bankruptcy proceedings.

Retainer

#### **Article 645**

(1) Creditors may apply retainer in respect of their obligations to debtors, provided prior to the date of the ruling on institution of bankruptcy proceedings both obligations existed and were reversibly directed to each other and of equal type and the receivable was executable. Where the receivable has become executable in the course of bankruptcy proceedings or as result of ruling to declare bankruptcy, and also where both obligations have become of equal type as result of such ruling, creditors may apply retainer only after occurrence of executability, and equality in type, respectively.

(2) The statement of retainer shall be sent to the Receiver in bankruptcy.

(3) The retainer may be declared null and void in respect to the bankruptcy estate, provided the creditor has acquired the receivable and the obligation to the debtor prior to the date of the ruling on institution

of bankruptcy proceedings, but he has known as of the time of acquiring the receivable or obligation that insolvency has occurred or that petition to institute bankruptcy proceedings has been submitted.

(4) Retainer effected by the debtor after the initial date of insolvency, shall be null and void in respect of the bankruptcy estate, except for the part that the creditor may have acquired from distribution of cashed property, regardless of the time of occurrence of both reversibly directed obligations.

Nullity of Actions and Deals

#### **Article 646**

(1) The following shall be considered null and void in respect of the bankruptcy estate, if effected after the promulgation of the ruling on institution of bankruptcy proceedings and not in compliance with the procedure established thereby:

1. execution of obligation that have occurred prior to the date of the ruling on institution of bankruptcy proceedings;
2. placement as pledge or establishment of mortgage on rights or chattels included in the bankruptcy estate;
3. deals in rights or chattels included in the bankruptcy estate.

(2) Execution of money obligation effected by the debtor within the period as from the initial date of insolvency through the promulgation of the ruling on institution of bankruptcy proceedings, shall be null and void with respect to the bankruptcy estate.

Nullity Claims

#### **Article 647**

In addition to the cases provided by law, the following actions and deals effected by the debtor may be declared null and void with respect to the bankruptcy estate:

1. gratuitous deals, except ordinary donations in favour of spouse, relatives of direct descent and relatives of lateral branch to the sixth degree, effected within three (3) years prior to the institution of bankruptcy proceedings;
2. gratuitous deals in favour of third parties, effected within two (2) years prior to the institution of bankruptcy proceedings;
3. deals against payment, where the items given exceed considerably in value the items received, effected within one (1) year prior to the institution of bankruptcy proceedings;
4. repayment of money obligation by transfer of property, effected within three (3) months prior to the initial date of insolvency, where the pay back could result in increase of the amount to be received by creditors;
5. establishment of mortgage, placement of pledge or other security in favour of receivable not secured till that time, effected within six (6) months prior to the institution of bankruptcy proceedings;
6. establishment of mortgage, placement of pledge or other security in favour of receivable of partner or shareholder not secured till that time, effected within one (1) year prior to the institution of bankruptcy proceedings;

7. deal effected within one (1) year prior to the institution of bankruptcy proceedings and which jeopardises the creditors, where one of the parties thereto is partner with unlimited liability, partner or shareholder who owns over twenty (20) percent of the company capital, member of management body or another person who controls the debtor or his activities.

Return of Items Given by Third Parties

#### **Article 648**

Where the provisions of Articles 646 or 647 have been applied to deals, the items given by third parties shall be returned, and where the items given are not included in the bankruptcy estate or moneys are owed, the third party shall become creditor.

Submission of Nullity Claims

#### **Article 649**

(1) Claims pursuant to Article 645, para (3), and Article 647 may be submitted by the Receiver in bankruptcy, and should he fail to do so - by any bankruptcy creditor within one year following the institution of proceedings.

(2) Claims pursuant to Articles 645, 646 and 647 of this Act, as well as claims pursuant to Article 135 of the Obligations and Contracts Act, related to the bankruptcy proceedings, shall be submitted to the court of jurisdiction over bankruptcy.

### **Section II**

Sealing

Order for Sealing

#### **Article 650**

(1) Should there exist danger of dissipation, destruction or concealment of property, the court of jurisdiction over bankruptcy may order the sealing of premises, equipment, transport vehicles, etc., where chattels of the debtor are stored.

(2) Inhabitable housing facilities and premises, needed to continue the activities of the debtor or to store perishable goods, shall not be sealed.

Execution of Sealing

#### **Article 651**

(1) Seals shall be fixed by a court officer within one (1) day following the receipt of order.

(2) The court officer shall prepare and submit immediately to the court a protocol listing the sealed premises and chattels.

### **Section III**

**Inventory of Property**

Removal of Seals

#### **Article 652**

Within three (3) days following his entry into office, the Receiver in bankruptcy must request removal of seals and preparing of inventory of real properties and chattels, moneys, valuables, securities, contracts, etc., of debtor's receivables and chattels in possession of third parties.

#### Preparation of Inventory

##### **Article 653**

- (1) The inventory shall be prepared by the Receiver in bankruptcy and the court officer.
- (2) The Receiver in bankruptcy shall inform the debtor about actions under para (1).
- (3) Should other properties be found after preparation of the inventory, supplementary inventory shall be prepared.

#### Liability for Inventory Property

##### **Article 654**

The Receiver in bankruptcy shall be liable for the property included in the inventory as from the time of preparation of the inventory, provided it has not been delivered to the debtor or to third parties for safe-keeping.

### CHAPTER THIRTY-EIGHT

#### **AUTHORITIES AND MANAGEMENT OF THE BANKRUPTCY ESTATE**

##### Section I

##### **Receiver**

##### Qualifications

##### **Article 655**

- (1) Natural or legal persons may become Receivers.
- (2) Natural persons who are Receivers shall conform with the following requirements:
  1. not to have been convicted as a citizen of lawful age for general offence, except for the cases of exoneration;
  2. not to be spouse of the debtor or creditor and not to be in kinship relations with any of them in direct descent and lateral branch to the sixth degree, and in-law lineage up to the third degree;
  3. not to be a creditor in the bankruptcy procedure;
  4. not to be a bankrupt debtor whose rights have not been reinstated;
  5. not to be in any relations with the debtor or creditor, which may generate substantiated doubts as to his impartiality.
- (3) Persons exercising the powers of legal persons acting as Receivers shall comply with the requirements under para 2. The court of jurisdiction over bankruptcy shall approve them on individual basis.

(4) Receiver powers may be exercised by several persons. In such cases, decisions shall be made unanimously and actions shall be undertaken jointly, unless the meeting of creditors decides otherwise.

(5) When Receiver powers are exercised by several persons, making decisions unanimously and acting jointly, they shall be jointly liable under Art. 663, paras 2 and 3.

#### Appointment of Receivers

##### Article 656

The court of jurisdiction over bankruptcy shall appoint a Receiver at the proposal of the first meeting of creditors, provided he complies with the requirements under Art. 655 and has given his consent in writing.

#### Discharge of Receivers

##### Article 657

(1) The court shall discharge a Receiver in the following cases:

1. his request in writing sent to the court;
2. legal disability;
3. request by the creditors entitled to two thirds of the receivables;
4. actual inability to exercise his powers;
5. death.

(2) The court may discharge the Receiver at any time, in the course of the fulfilment of its judicial obligations or at the proposal of the debtor, the committee of creditors or a creditor, when such Receiver fails to fulfil his obligations or his actions jeopardise the interests of the creditor or the debtor.

(3) A Receiver discharged under para 1, items 1 and 3 and para 2 shall continue to perform his duties until a new Receiver is appointed.

#### Receiver's Powers

##### Article 658

(1) The Receiver shall:

1. represent the enterprise;
2. manage its current affairs;
3. receive the inventory, keep and maintain the books and business correspondence of the enterprise;
4. identify and establish the debtor's property;
5. file requests for terminating or declaring null and void agreements to which the debtor is a party under the terms and conditions set forth by law;
6. participate in the court proceedings of the debtor's enterprise and bring lawsuits on his behalf;

7. collect the cash receivables of the debtor and deposit them in a special bank account;
8. dispose of the funds in the debtor's bank accounts with the permission of the court when this becomes necessary in connection with the management of the property and its preservation;
9. identify and establish the debtor's creditors;
10. convene and organise the meetings of creditors in conformity with a court ruling;
11. offer a plan under Art. 696;
12. undertake actions to terminate the debtor's participation in companies;
13. cash in the property from the bankruptcy estate;
14. undertake other actions prescribed by law or assigned by court.

(2) The Receiver shall exercise his powers in conformity with the development of the insolvency proceedings and the court rulings.

#### Accountability

##### Article 659

(1) The Receiver shall enter each action on his part relative to the property management in a specially bound journal with numbered pages.

(2) The Receiver shall submit performance reports to the court on a monthly basis or immediately, at request.

#### ***Bona Fide Requirement***

##### Article 660

(1) The Receiver shall exercise his powers in good faith.

(2) Receivers may not delegate their powers to other persons, except in case of an explicit permission by court.

#### ***Remuneration***

##### **Article 661**

Receivers shall get a remuneration for their work as determined by court. Depending on the results after the end of proceedings, the court may determine an additional remuneration.

#### ***Restrictions***

##### **Article 662**

(1) The Receiver may not negotiate on behalf of the debtor either with himself or with another person whom he also represents.

(2) Receivers may not acquire in any way, directly or through another person, any chattel or right from the bankruptcy estate. This restriction applies also to the their spouses, relatives in direct descent and lateral branch to the sixth degree and in-law lineage up to the third degree.

(3) Receivers shall not disclose any information, data or facts which have become known to them in the course of exercising of their powers.

(4) Paragraphs 1, 2 and 3 apply also to persons exercising Receiver powers of a legal person.

### ***Liability***

#### **Article 663**

(1) Where the Receiver fails to perform his duties or performs them poorly, the court may impose a fine which, for each individual case, may not exceed the amount of his monthly remuneration.

(2) The Receiver is liable to pay a compensation equal to the legitimate interest for any delay on his part to deposit the funds received in the bank.

(3) The Receiver is liable to compensate the debtor and creditors for the damage inflicted by him to them in the course of the exercising of his powers.

### ***Final Report of the Receiver***

#### **Article 664**

(1) Receivers shall submit a report in writing upon the termination of their work within a term prescribed by the court.

(2) The newly appointed Receiver, the debtor, the creditors' committee or a creditor may raise objections to the report within seven days after its submission.

(3) The court shall issue a ruling on the objections, which will be final and not subject to appeal.

(4) Should no objection be raised within seven days, the report will be considered accepted.

### ***Submission of Books and Property***

#### **Article 665**

Upon termination of his activities, the Receiver shall immediately submit the books and property at his disposal to the newly appointed Receiver or a person designated by the court or to the debtor in the cases set forth in Art. 707, para 1.

## **Section II**

### **Provisional Receiver**

#### ***Appointment of Provisional Receiver***

#### **Article 666**

The court shall appoint the provisional Receiver with the ruling to start bankruptcy proceedings, provided he complies to the requirements under Art. 655 and has given his consent.

### ***Discharge of Provisional Receiver***

#### **Article 667**

The provisional Receiver shall be discharged under the terms and conditions set forth in Art. 657 and upon the appointment of the Receiver nominated by the meeting of creditors.

### ***Powers of the Provisional Receiver***

#### **Article 668**

Provisional Receivers shall enjoy the powers under Art. 658. In addition, within 14 days after the date of the ruling on bankruptcy proceedings, the provisional Receiver shall prepare:

1. a list of creditors on the basis of the debtor's books;
2. a report in writing on the reasons for the insolvency, the condition of the property and the measures taken to protect it as well as the opportunities for recovery of the enterprise.

### **P a r T III**

#### **First Meeting of Creditors**

##### ***Convention of the First Meeting of Creditors***

#### **Article 669**

The first meeting of creditors shall be convened on the date scheduled by the court with the ruling to institute bankruptcy proceedings.

##### ***Decision-Making at the First Meeting of Creditors***

#### **Article 670**

- (1) The first meeting of creditors will be legitimate when it is attended by at least two creditors.
- (2) The decisions of the first meeting of creditors are made by a simple majority vote of the creditors present.

##### ***Participation of the Provisional Receiver and the Debtor***

#### **Article 671**

The participation of the provisional Receiver at the first meeting of creditors is mandatory, whereas the debtor may attend it if he deems it necessary.

##### ***Powers of the First Meeting of Creditors***

#### **Article 672**

The first meeting of creditors shall:

1. listen to the report of the provisional Receiver under Art. 668, item 2;
2. nominate a Receiver and submit the nomination to the court for approval;

3. elect a creditors' committee.

#### Section IV

### **Meeting of Creditors**

#### *Conduct of the Meeting of Creditors and Voting Rights*

##### **Article 673**

(1) The meeting of creditors shall be convened after the approval of the list under Art. 692 by the court.

(2) After receivables are accepted, voting rights at the meeting of creditors shall be granted only to creditors with accepted receivables.

(3) The court may grant voting rights also to a creditor under Art. 637, para 2 or Art. 694, para 1, provided his receivables are supported with convincing evidence in writing.

(4) No voting rights under para 3 shall be granted to a creditor under Art. 616, para 2.

#### *Convention of the Meeting of Creditors*

##### **Article 674**

The court shall convene the meeting of creditors at its own initiative or at the request of the debtor, Receiver, creditors' committee or creditors holding one fifth of the amount of accepted receivables.

#### *Invitation for the Meeting of Creditors*

##### **Article 675**

(1) The invitation for the meeting of creditors shall contain the agenda, date, hour and venue of the meeting.

(2) The invitation shall be promulgated in the State Gazette, the advertisement being considered due notification of all creditors.

#### *Decision-Making*

##### **Article 676**

(1) The meeting of creditors shall be held, regardless of the number of persons present and its chairman shall be a judge appointed by the chairman of the district court.

(2) During the decision-making process, each creditor shall be entitled to a number of votes representing the proportional share his receivables in the total amount of accepted receivables and the receivables with voting rights under Art. 673, para 3.

(3) Decisions shall be made by simple majority vote, unless the law prescribes otherwise.

#### *Powers of the Meeting of Creditors*

##### **Article 677**

(1) The meeting of creditors shall:

1. listen to the report of the Receiver on his activities;
2. hear the report of the creditors' committee;
3. nominate a Receiver, if none has been nominated, and submit the nomination for approval to the court;
4. propose to the court to discharge the Receiver and replace him by another person;
5. propose to the court the amount of the Receiver's remuneration or any alteration thereof;
6. appoint the creditors' committee, if none has been appointed, or change its membership;
7. propose to the court the amount of the subsistence for the debtor and his family.

(2) If the meeting of creditors fails to make a decision under para 1, item 3, the Receiver shall be appointed by the court. The court ruling shall not be subject to appeal.

(3) Minutes shall be taken at the meeting of creditors and signed by the chairing person and the secretary of the meeting.

#### ***Effect of the Decisions Made by the Meeting of Creditors***

##### **Article 678**

The decisions made by the meeting of creditors shall be binding on all creditors, including those absent.

#### ***Cancellation of a Decision of the Meeting of Creditors by the Court***

##### **Article 679**

(1) The court of jurisdiction over bankruptcy may cancel a decision of the meeting of creditors, at the request of the debtor or a creditor, where such decision is unlawful or causes substantial damage to a part of the creditors.

(2) The request shall be filed within seven days after the meeting is held and it shall be examined by the court of jurisdiction over bankruptcy with the debtor and creditors being summoned to the court session.

(3) Creditors under para 2 shall be summoned through advertisement in the State Gazette.

(4) The court decision under para 1 shall not be subject to appeal.

#### **Section V**

##### **Creditors' Committee**

##### ***Options***

##### **Article 680**

(1) The meeting of creditors may appoint a creditors' committee consisting of not less than three and not more than nine members.

(2) The creditors' committee shall include persons representing both secured and unsecured creditors, except for those under Art. 616, para 2.

### ***Powers***

#### **Article 681**

(1) The creditors' committee shall assist and check the activities of the Receiver with respect to the property management and inspect the books and cash availabilities.

(2) Cash availabilities shall be inspected at least once a month and the findings shall be communicated to the court of jurisdiction over bankruptcy.

### ***Remuneration***

#### **Article 682**

(1) The members of the creditors' committee shall be entitled to remuneration which is determined at the time of their appointment at the expense of creditors.

(2) The unpaid remuneration shall be deducted, at the request of the creditors' committee, when the property cashed in is distributed according to the size of receivables on a pro rata basis.

### ***Property Acquisition Ban***

#### **Article 683**

Members of the creditors' committee shall not acquire in any way either directly or through another person chattels or rights from the Bankruptcy Estate. This restriction applies also to the their spouses, relatives of direct lineage, relatives of collateral lineage up to six times removed and in-laws up to three times removed.

### ***Subsidiary Application of the Obligations and Contracts Act***

#### **Article 684**

As far as the relations between the creditors' committee and creditors are not settled with the provisions of this Part or with an agreement, the provisions of Arts. 280-292 of the Obligations and Contracts Act shall apply.

## **CHAPTER THIRTY-NINE**

### **CLAIMING RECEIVABLES**

#### ***Deadline for Claims***

#### **Article 685**

(1) Creditors shall claim their receivables in writing before the court of jurisdiction over bankruptcy within one month after the advertisement on the start of the bankruptcy proceedings.

(2) Each creditor shall indicate the grounds and amount of the receivables, privileges and security, the legal address at the site of the court and submit evidence in writing.

#### ***List of Receivables Claimed***

## **Article 686**

The Receiver shall compile a list of the creditors claiming receivables within 14 days after the expiration of the term under Art. 685, para 1. The list shall indicate the grounds and size of the receivables, privileges and security. The list shall be made available to the creditors and the debtor at the court chancery.

### ***Ex officio Entry***

## **Article 687**

The receivables of a worker or employee, arising from labour relations with the debtor which have occurred up to one year prior to the decision to start bankruptcy proceedings shall be entered ex officio in the list of receivables claimed by the Receiver.

### ***Additional Claims***

## **Article 688**

(1) Claims made after the expiration of the term under Art. 685, para 1 shall be entered on the list of receivables claimed and accepted in accordance with the terms and procedures set forth by law.

(2) A creditor with claims under para 1 may not challenge receivables already accepted or distribution made and he shall be satisfied with the balance if the property cashed in has been distributed. The additional expenses for the acceptance of his claim shall be borne by him.

### ***List of the Receivables Accepted by the Receiver***

## **Article 689**

(1) The Receiver shall compile a list of the receivables claimed and the receivables under Art. 687, which he has accepted, within one month after the expiration of the term under Art. 686. The list shall indicate the creditor, the grounds and size of the receivables, the type and size of the security or privilege.

(2) The Receiver shall make an announcement in the State Gazette about the list compiled and its availability for creditors and the debtor at the court chancery.

### ***Challenge of the List***

## **Article 690**

(1) The debtor or creditor may challenge an accepted or unaccepted receivable with an objection in writing before the Receiver within 14 days after the promulgation of the announcement under Art. 689, para 2.

(2) The objection shall be examined within 14 days after the expiration of the term under para 1 jointly by the Receiver, the debtor, the creditor whose presence on or absence from the list is challenged and the creditor who has raised the objection.

(3) After the examination under para 2, the Receiver shall make the final decision relative to the exclusion or inclusion of the receivable in the list of accepted receivables and communicate this decision to the persons under para 2.

### ***Unchallengeable Receivables***

## **Article 691**

Receivables which have been established with an enforced court ruling issued after the date of the decision to start bankruptcy proceedings where the Receiver is a party cannot be challenged.

### ***Approval of the List of the Receivables Accepted by the Receiver***

## **Article 692**

- (1) The list of the receivables accepted by the Receiver shall be approved by the court.
- (2) Should an objection with respect to a receivable accepted or unaccepted by the Receiver be raised within seven days after the communication under Art. 690, para 3, the court shall examine such objection in a public session where the Receiver, the debtor, the creditor with the challenged receivable and the creditor raising the objection are summoned.
- (3) An objection may be raised only by a person who has challenged the list of the receivables accepted by the Receiver under Art. 690, para 1 only for the receivable for which the challenge has been made.
- (4) Upon finding the objections reasonable, the court shall approve the list with the due amendment made and notify the persons under para 2.
- (5) Where no objections have been raised, the court shall examine and approve the list in a session held in camera.

### ***Accepted Receivable***

## **Article 693**

For the purposes of the bankruptcy proceedings, a receivable shall be considered accepted when it is included in the list of accepted receivables approved by the court under Art. 692, except for the receivables under Art. 694, para 1.

### ***Declaratory Claim***

## **Article 694**

- (1) Persons, having raised objections under Art. 692, para 3, may claim the declaration of the existence of an unaccepted receivable or the non-existence of an accepted receivable within 14 days after the court ruling on the approval of the list of receivables accepted by the Receiver. The claim shall be lodged with the court of jurisdiction over bankruptcy.
- (2) If the claim is traversed, the plaintiff shall pay the lawsuit costs and if the debtor or the Receiver is the plaintiff, such costs shall be at the expense of the bankruptcy estate.
- (3) The enforced court decision under para 1 shall have declaratory action with respect to the relations between the debtor, Receiver and all creditors of the insolvency.

### ***Expansion of the List***

## **Article 695**

The list approved by the court shall be expanded with receivables claimed and approved subsequently under terms and procedures set forth by law.

## **CHAPTER FORTY**

## **RECOVERY OF THE ENTERPRISE**

### ***Recovery Plan***

#### **Article 696**

A recovery plan can envisage a deferment or rescheduling of payments, a remission of the debts in full or in part, a reorganisation of the enterprise, special terms and procedures for cashing in of the property, or taking other actions or making other deals.

### ***Proposal of a Plan***

#### **Article 697**

(1) The right to propose a plan devolves to:

1. The debtor;
2. The Receiver;
3. The creditors holding at least one-third of the secured receivables;
4. The creditors holding at least one-third of the unsecured receivables;
5. The partners, the shareholders respectively, who hold at least one-third of the capital of the debtor company;
- 6 An unlimited liability partner;
7. Twenty per cent of the total number of the debtor's employees.

The creditors with the receivables, specified under Art. 616, para. 2, are not entitled to propose a plan.

### ***Deadline for Proposing a Plan***

#### **Article 698**

(1) A plan may be proposed not later than the date of the court ruling on the approval of the list of the receivables accepted by the Receiver under Art. 692.

(2) More than one plan may be proposed in the bankruptcy proceedings.

### ***Costs on the Preparation of the Plan***

#### **Article 699**

The costs on the preparation of a plan, proposed by the debtor or by the Receiver, shall be at the expense of the bankruptcy estate, and in the rest of the cases they shall be at the expense of the proposer.

### ***Content of the Plan***

#### **Article 700**

(1) The plan shall contain:

1. The extent of satisfying the receivables, the manner and periods for paying the creditors within each class;
2. The terms and conditions under which the partners in a general or limited partnership are relieved from their commitments in full or in part;
3. The extent of satisfaction received by each class of creditors as compared with what it would have received in the event of distributing the assets under the terms and procedures provided by law;
4. The guarantees provided to each class of creditors in relation to the implementation of the plan;
5. The managerial, organisational, legal, financial, technical, and other actions for the implementation of the plan;
6. The influence of the plan on the employment of the debtor's employees.

(2) The plan may envisage the sale of the entire enterprise or part of it, the manner of the sale, the buyer, a debt equity swap, a renewal of a payable, or taking other actions or making other deals.

### ***Admittance of the Plan***

#### **Article 701**

(1) By a ruling, given at an *in camera* sitting within 7 days after the proposal, the court admits the plan to be considered by the creditors' meeting, provided the plan meets the requirements under Art. 700, para. 1. The court specifies the date of holding the meeting, not later than 45 days after the date of the ruling.

(2) In the event that the plan proposed does not meet the requirements under Art. 700, para. 1, the court sends a notice to the proposer to remove the instances of non-compliance within 7 days.

(3) The ruling on non-admittance of the plan is subject to appeal within 7 days.

### ***Announcement of the Plan and Convention of the Creditors' Meeting***

#### **Article 702**

(1) The court promulgates in *the State Gazette* an announcement of the date of holding the creditors' meeting for adoption of the plan.

(2) The debtor and the Receiver are summoned to the meeting, and the creditors are deemed to be summoned by the promulgation of the announcement.

### ***Adoption of the Plan***

#### **Article 703**

(1) The right to vote on the plan devolves only to a creditor whose receivable has been accepted or whose right to vote under Art. 673, para. 1 has been recognised.

(2) The creditors vote separately in the following classes:

1. Creditors with secured receivables and creditors with a foreclosure right;
2. Creditors under Art. 722, para. 1, sub-paragraph 4;

3. Creditors under Art. 722, para. 1, sub-paragraphs 6 and 7;

4. Creditors with unsecured receivables;

5. Creditors under Art. 616, para. 2,

(3) A creditor may also vote *in absentia*, by a letter with a signature authenticated by the notary public.

(4) The plan shall be accepted by each class by a simple majority of the size of the receivables of such class. In the event that the plan envisages the full payment of the receivables of a certain creditor class, they are deemed to have accepted it without voting.

(5) A *caveat* to the plan accept can be filed in the court of jurisdiction over bankruptcy within 7 days after the date of the voting.

### ***Approval of the Plan by the Court***

#### **Article 704**

(1) The court of jurisdiction over bankruptcy approves the plan adopted, in case the requirements of the law have been complied to.

(2) In the event that several plans have been accepted, the debtor's plan is approved; and in case the debtor's plan can not be approved, that plan is approved which has been accepted by the creditor classes whose interests have been injured to the utmost.

(3) The plan is approved at an *in camera* sitting. In case caveats have been entered to the plan accept by the creditors' meeting, the court considers the caveats at an *in camera* sitting, summoning the debtor, the Receiver and the party which has entered the caveat.

### ***Terms and Conditions for the Approval of the Plan***

#### **Article 705**

The court approves the plan, provided:

1. The requirements of the law for the acceptance of the plan by the different creditor classes have been complied to;

2. The plan has been accepted by at least two creditor classes under Art. 703, para. 2, sub-paragraphs 1-4. In the event that the plan envisages partial payment, at least one of the creditor classes, which have accepted it, shall receive partial payment;

3. All creditors of the class are put on an equal footing, unless the injured creditors give their consent in writing;

4. The plan ensures that a dissenting creditor and a dissenting debtor receive the same payment which they would have received if the assets were allocated under the terms and procedures provided by law;

5. No creditor receives more than is due under this creditor's accepted receivable;

6. No income is envisaged to be received by a partner or shareholder until the final payment of the obligations to the class of creditors whose interests are affected by the plan;

7. No support of a sole proprietor, unlimited liability partner or their families, greater than the support ruled by the court is envisaged up to the final fulfilment of the obligations to the class of creditors whose interests are affected by the plan.

### ***Effect of the Plan Approved***

#### **Article 706**

(1) The plan approved by the court is mandatory for the debtor and the creditors, whose receivables have emerged before the date of the ruling to institute bankruptcy proceedings.

(2) The receivables of the creditors under para. 1 are transformed in accordance with what is envisaged in the plan.

(3) The debtor is obliged immediately to carry out the structural changes envisaged by the plan.

### ***Termination of the Bankruptcy Proceedings***

#### **Article 707**

(1) By the ruling to approve the plan, the court terminates the bankruptcy proceedings.

(2) Upon the request of a creditor with an accepted receivable, of the debtor or of the Receiver, with the ruling for approval of the plan or at a later date, for the purpose of preserving the property and ensuring the implementation of the plan, the court may:

1. Rule that the Receiver continue to supervise the debtor's actions in implementing the plan, determining a remuneration for the Receiver which is at the debtor's expense;

2. Appoint a procurator of the debtor's enterprise or replace the current procurator by another person, determining a remuneration for him which is at the debtor's expense;

3. Specify the assets, which the debtor may dispose of only with the prior consent of the Receiver, and in the absence of the Receiver - with the prior consent of the court.

### ***Writ of Execution - Warrant***

#### **Article 708**

A creditor may procure a writ of execution for his transformed receivable on the grounds of the plan approved by the court.

### ***Resumption of the Bankruptcy Proceedings***

#### **Article 709**

(1) In the event that the debtor does not fulfil his obligations under the plan, the creditors whose receivables have been thereby transformed and account for at least 15 per cent of the total size of the receivables, or the Receiver under the terms and conditions of Art. 707, para. 2, sub-paragraph 1 may request a resumption of the bankruptcy proceedings, without new insolvency having to be proved.

(2) In the cases under para. 1, the transforming effect of the plan with regard to the creditors' rights and the security remains.

## **DECLARATION OF BANKRUPTCY**

### ***Ruling on Declaration of Bankruptcy***

#### **Article 710**

The court declares the debtor to be bankrupt, in the event that a plan under Art. 696 has not been proposed within the period provided by law or the plan proposed has not been accepted and approved, as well as in the cases under Art. 630, para. 2, Art. 632, para. 1, and Art. 709, para. 1.

### ***Contents of the Ruling on Declaration of Bankruptcy***

#### **Article 711**

(1) By the ruling on declaration of bankruptcy, the court:

1. Declares the debtor to be bankrupt;
2. Distrains and forecloses on the debtor's assets;
3. Terminates the powers of the agencies of the debtor - legal person;
4. Deprives the debtor of the right to manage and dispose of the assets, the bankruptcy estate included;
5. Institutes the start of the cashing of property included in the bankruptcy estate, and of the distribution of the cashed in property.

(2) In the cases under Art. 630, para. 2, the cashing of property, with the exception of perishable goods, shall not start before the expiry of the period for proposing a plan under Art. 696.

### ***Effect of the Ruling, Entering, and Promulgation***

#### **Article 712**

(1) The ruling on declaration of bankruptcy has an all-embracing effect.

(2) The ruling on declaration of bankruptcy is entered in the respective court register and is promulgated in *the State Gazette*.

### ***Appeal against the Ruling on Declaration of Bankruptcy***

#### **Article 713**

The ruling on declaration of bankruptcy is subject to an appeal within 7 days after promulgation.

### ***Immediate Execution***

#### **Article 714**

The ruling on declaration of bankruptcy is subject to immediate execution.

### ***Enaction of Distraint and Foreclosure, and Entering Them***

#### **Article 715**

(1) As from the day of promulgating the ruling on declaration of bankruptcy, the real estate is deemed distrained upon, the chattels and the debtor's receivables from third *bona fide* persons are deemed foreclosed respectively.

(2) The distraint on the debtor's real estate and ships is entered in the notary public's registers, in the ships' registers respectively, on the basis of the announcement of the debtor's being declared insolvent promulgated in the *State Gazette*.

## CHAPTER FORTY-TWO

### **CASHING IN OF PROPERTY**

#### *Scope*

#### **Article 716**

The real estate and the chattels as a whole or parts of them, the chattel and the other property rights within the bankruptcy estate are transformed into money, insofar as it is required for the payment of the debtor's obligations.

#### *Sale of Chattels and Property Rights*

#### **Article 717**

(1) The chattel and property rights out of the bankruptcy estate are sold by the Receiver under the terms and procedures of Art. 375-389 of the Civil Proceedings Code, the Receiver having the powers of a bailiff.

(2) The injunction for the assignment is issued by the court of jurisdiction over bankruptcy and has a transferring effect.

#### *Sale in Special Cases*

#### **Article 718**

(1) Upon the Receiver's proposal, the court of jurisdiction over bankruptcy may permit the sale to be made through direct negotiations or through an intermediary, in case the chattel or the property right have been offered under the terms and procedures of Art. 717, para. 1, but the sale has not been realised because the buyer has not appeared or has desisted.

(2) Stocks in other companies, owned by the debtor, are sold after they have been offered to be purchased by the remaining partners and the offer has not been accepted within one month.

(3) In the event of a sale through direct negotiations or through an intermediary, the buyer shall not alienate, institute chattel rights, and lease out the property acquired before the final payment of the price.

#### *Sale of a Pledged Chattel*

#### **Article 719**

A pledged chattel, held by a creditor or by a third person, is demanded by the Receiver and is sold under the terms and procedures of this chapter.

## CHAPTER FORTY-THREE

## **DISTRIBUTION OF THE CASHED IN PROPERTY AND COMPLETION OF THE BANKRUPTCY PROCEEDINGS**

### Section I

#### **Distribution of the Cashed in Property**

##### *Condition for the Distribution*

#### **Article 720**

The distribution is carried out when sufficient cash funds accumulate in the bankruptcy estate.

##### *Distribution Account*

#### **Article 721**

(1) The Receiver prepares an account for the distribution of the available amounts among the creditors, entered in the list of the accepted receivables, approved by the court, in conformity with the order, the privileges, and the pledges.

(2) The distribution account is partial up to the point when the obligations have been repaid in full or the entire bankruptcy estate, with the exception of the unsellable chattels, has been cashed in.

##### *Order of the Receivables*

#### **Article 722**

(1) When the cashed in property is allocated, the receivables are redeemed in the following order:

1. Receivables secured by a pledge or mortgage - out of the value of the pledged or mortgaged chattel;
2. Receivables with regards to which the right to foreclose is exercised - out of the value of the foreclosed property;
3. Bankruptcy costs;
4. Receivables deriving from employment contractual relations, which have emerged up to one year before the date of the ruling to institute bankruptcy proceedings;
5. Support owed by the debtor to third persons by law;
6. Current contributions owed to the State Social Security, as well as contributions, which have emerged up one year before the date of the ruling to institute bankruptcy proceedings;
7. Current public law receivables of the State and the municipalities, such as taxes, customs duties, charges, etc. and such receivables, which have emerged up to one year before the date of the ruling to institute bankruptcy proceedings;
8. Receivables , which have emerged after the date of the ruling to institute bankruptcy proceedings and have not been paid when due, deriving from the continuing operations of the debtor;
9. All other receivables.

(2) In case the cash funds are insufficient to fully satisfy the receivables under para. 1, sub-paragraphs 3-9, they are allocated among the creditors under the commensurability order.

### ***Costs on the Bankruptcy***

#### **Article 723**

Bankruptcy costs are:

1. The government charge on the bankruptcy proceedings;
2. The Receiver's remuneration;
3. The payables to the employees, in case the debtor's enterprise has not wound up its operations;
4. The expenses on replenishing, managing, assessing, and distributing the bankruptcy estate;
5. The specified support of the debtor and his family.

### ***Satisfaction of a Secured Creditor and of a Creditor with a Right to Foreclose***

#### **Article 724**

(2) In the event that the selling price of a pledged or mortgaged chattel does not cover the receivable with the interest accumulated in full, the creditor participates for the balance in the distribution along with the creditors with unsecured receivables.

(2) In case the selling price of a pledged or mortgaged chattel exceeds the secured receivable with the interest accumulated, the balance is included in the bankruptcy estate.

(3) The amount due under para. 2 from the sale of the pledged or mortgaged chattel is immediately turned over to the creditor.

(4) Paragraphs 1, 2, and 3 also apply to satisfying the receivable of a creditor with a right to foreclose.

### ***Participation of Receivables under Dilatory or Peremptory Conditions***

#### **Article 725**

(1) A receivable under a dilatory condition is included in the initial distribution as a disputed receivable. An adequate distribution amount is set aside for it. In the final distribution, this receivable is excluded, in case the condition has not been realised.

(2) A receivable under a peremptory condition is included in the distribution as unconditional.

### ***Setting Aside Amounts for a Disputed Receivable***

#### **Article 726**

(1) For a receivable, disputed under judicial proceedings, the adequate amount is set aside in the distribution account.

(2) In case only the security or the privilege has been disputed, the receivable is included as unsecured up to the settlement of the dispute, the amount which the creditors would have received for a secured receivable being set aside in the distribution account.

#### ***Publicity of the Distribution Account***

##### **Article 727**

The distribution account is put in a visible and accessible place in the courthouse, designated for this purpose, for 14 days.

#### ***Caveats to the Account***

##### **Article 728**

The debtor, the creditors' committee, and each creditor may put in the court a caveat in writing to the distribution account, within the period under Article 727.

#### ***Approval of the Distribution Account***

##### **Article 729**

(1) The court of jurisdiction over bankruptcy approves, by a ruling, the distribution account, having made the relevant change, in case it has established *ex officio* or following a caveat non-conformance with the law.

(2) The definition under para. 1 is not subject to appeal.

(3) The distribution account approved is executed by the Receiver.

#### ***Additional Inclusion of a Creditor in the Distribution***

##### **Article 730**

A creditor who has claimed his receivable after a distribution has been made, is included in the subsequent distributions without the right for equalisation with what has already been paid.

#### ***Additional Inclusion of Amounts***

##### **Article 731**

The bankruptcy estate includes additionally the newly-collected amounts from receivables of the debtor and from cashing of property, as well as the amounts from receivables which the creditors have waived.

#### ***Return of the Bankruptcy Estate Balance***

##### **Article 732**

After the full payment of the obligations, the bankruptcy estate balance is returned to the debtor.

Section II

#### **Completion of the Bankruptcy Proceedings**

### ***Receiver's Report***

#### **Article 733**

The Receiver submits to the court a report on his activities, as well as the final account of the distribution and of the remaining unredeemed receivables, within a period not longer than one month after the depletion of the bankruptcy estate, with the exception of the unsellable chattels.

### ***Conclusive Creditors' Meeting***

#### **Article 734**

(1) The court convenes a conclusive creditors' meeting within 14 days after receiving the Receiver's report.

(2) The meeting adopts the final account of the distribution and of the remaining unredeemed receivables, and makes a decision on the unsellable chattels from the bankruptcy estate.

### ***Completion of the Bankruptcy Proceedings***

#### **Article 735**

(1) The bankruptcy proceedings are terminated by a court ruling, when:

1. The obligations have been paid;
2. The bankruptcy estate has been depleted.

(2) By the ruling under para. 1, the court enacts a deletion of the merchant, unless all creditors have been satisfied and assets have remained.

(3) The ruling under para. 1 is subject to appeal within 7 days after its promulgation in *the State Gazette*.

### ***Termination of the Receiver's Powers***

#### **Article 736**

(1) The Receiver's powers are terminated with the termination of the bankruptcy proceedings.

(2) The Receiver hands over the commercial books and the assets balance to the debtor or to the debtor's managerial body.

### ***Depositing the Uncollected Amounts***

#### **Article 737**

Upon the injunction of the court, the Receiver deposits with a bank the amounts which have been set aside in the final distribution for the uncollected or disputed receivables.

### ***Termination of the Effect of the Distrain***

#### **Article 738**

(1) The effect of the distrain is terminated by the termination of the bankruptcy proceedings.

(2) The distraint is deleted *ex officio* as from the day of promulgating the announcement of the termination of the bankruptcy proceedings.

### ***Redemption***

#### **Article 739**

(1) The receivables which have not been claimed in the bankruptcy proceedings and the rights which have not been exercised are redeemed.

(2) The receivables which have not been satisfied in the bankruptcy proceedings are redeemed, with the exception of the cases under Art. 744, para. 1.

## CHAPTER FORTY FOUR

### **OUT OF COURT SETTLEMENT**

#### ***Agreement***

#### **Article 740.**

(1) At any point in the bankruptcy proceedings it shall be possible to conclude an agreement for settlement of cash obligations between the debtor and all the creditors with recognised claims.

(2) Bankruptcy proceedings shall be discontinued upon the conclusion of an agreement.

(3) The agreement shall be concluded in writing.

#### ***Applicability of Civil Law***

#### **Article 741.**

Civil law shall apply unless provided otherwise in the agreement or this Act.

## CHAPTER FORTY FIVE

### **SPECIFIC RULES FOR COMMERCIAL COMPANIES**

#### ***Overindebtedness***

#### **Article 742.**

(1) A company shall be deemed overindebted provided its assets is insufficient to cover its liabilities.

(2) Bankruptcy proceedings on grounds of overindebtedness can also be initiated by a member of the company's management body.

#### ***Separation of Property***

#### **Article 743.**

(1) The property of a general partnership, limited partnership or partnership limited by shares with respect of which bankruptcy proceedings have been initiated, as well as the property of an unlimited partner shall be kept separately.

(2) Creditors with personal claims on debts of an unlimited partner shall not participate in the distribution of the company's assets.

(3) The creditors of a company can participate in the distribution of the personal property of an unlimited partner only with a claim which has not been satisfied in the course of the company's bankruptcy proceedings.

## CHAPTER Forty Six

### **RESUMPTION OF BANKRUPTCY PROCEEDINGS**

#### *Conditions for Resumption*

##### **Article 744.**

(1) Discontinued bankruptcy proceedings shall be resumed by court ruling provided within a year after such discontinuation:

1. amounts allocated for contested claims are released;
2. property the existence of which was ignored during the bankruptcy proceedings is discovered.

(2) Where the released allocated amounts and the newly-discovered property are insufficient to cover the cost of proceedings, the court may refuse to resume the proceedings unless an interested party pays the necessary amount in advance.

#### *Petition for Resumption of Proceedings*

##### **Article 745.**

Bankruptcy proceedings shall be resumed following a written petition by the debtor or a creditor whose claim has been recognised or established by court.

#### *Effect of Resumption*

##### **Article 746.**

(1) The ruling to resume proceedings shall reestablish the rights of the Receiver in bankruptcy and the Committee of Creditors.

(2) Resumed proceedings shall recommence from the final distribution account, which is considered as partial.

## CHAPTER FORTY SEVEN

### **RESTORATION OF DEBTOR RIGHTS**

#### *Effect of Restoration*

##### **Article 747.**

Restoration of rights of a debtor - sole proprietor and unlimited partner, shall render the implications of declaration of bankruptcy under the law, null and void.

#### *Prerequisites for Restoration*

**Article 748.**

(1) Rights shall be restored to a debtor who pays in full claims recognised in the bankruptcy proceedings and the related interest and expenditures.

(2) The rights of a debtor shall be restored also in case of non-full payment of debts if the bankruptcy is due to adverse changes in the economic environment.

(3) The rights of an unlimited partner shall be restored pursuant to Paras 1 and 2. If he/she pays the debts of an insolvent company, and such payment shall not be considered an amount not owed.

***Inadmissibility***

**Article 749.**

The rights of a debtor convicted for bankruptcy shall not be restored.

***Petition for Restoration***

**Article 750.**

(1) Debtors shall file a petition for restoration of rights in writing with the court of jurisdiction over bankruptcy.

(2) The petition shall be accompanied with evidence that the claims recognised in the bankruptcy proceedings have been paid.

***Restoration of Rights of Deceased Debtors***

**Article 751.**

Petition for restoration of rights of a deceased debtor shall be filed by one heir at least.

***Notice of Petition for Restoration***

**Article 752.**

Notice of a petition for restoration shall be published in the State Gazette.

***Objection to Petition***

**Article 753.**

Within a month after publication of the notice in the State Gazette any creditor with a recognised or established by court order claim can object in writing against the petition for restoration.

***Consideration of Petition***

**Article 754.**

A petition for restoration and the related objections shall be considered in open session to which the petitioner and the objecting creditor have been summoned.

***Appeal***

**Article 755.**

- (1) A court ruling in favour of the petition shall not be subject to appeal.
- (2) A court ruling against the petition for restoration of rights shall be subject to appeal by the debtor within a seven-day period.
- (3) A court ruling which has come into force shall be published in the State Gazette.

***New Petition for Restoration***

**Article 756.**

A new petition for restoration of rights can be filed not earlier than one year after the ruling to traverse a petition has come into effect.

CHAPTER Forty Eight

**APPLICABLE LAW**

***Acceptance of Foreign Court Ruling on Bankruptcy***

**Article 757.**

On conditions of reciprocity the Republic of Bulgaria shall honour foreign court ruling of bankruptcy, provided it is taken by an authority of the state where the debtor's registered main office is located.

***Powers of a Receiver in Bankruptcy Appointed by Foreign Court of Law***

**Article 758.**

A Receiver in bankruptcy appointed by a foreign court ruling shall have the powers envisaged in the state where the bankruptcy proceedings are initiated, provided they do not contradict public order rules of the Republic of Bulgaria.

***Supplementary Bankruptcy Proceedings***

**Article 759.**

(1) At the request of a debtor, Receiver in bankruptcy appointed by foreign court of law or a creditor, a Bulgarian court can institute supplementary bankruptcy proceedings concerning a merchant who has been ruled bankrupt by a foreign court, provided he/she has substantial property within the territory of the Republic of Bulgaria.

(2) The decision pursuant to Para 1 shall be effective only in respect of debtor property within the territory of the Republic of Bulgaria.

***Effect of Supplementary Proceedings***

**Article 760.**

(1) A claim for repeal lodged by the Receiver in bankruptcy with respect of the main or supplementary bankruptcy proceedings shall be deemed to apply to both.

(2) A creditor who has received partial payment under the main proceedings shall participate in the distribution of assets under the supplementary proceedings provided the portion he/she would get is bigger than the respective portion to be received by the other creditors under the supplementary proceedings.

(3) A plan referred to in Art. 696 can be approved in the supplementary bankruptcy proceedings only with the consent of the Receiver in main bankruptcy proceedings.

(4) When distribution under supplementary proceedings is completed, the remaining property shall be transferred to the property under the main proceedings.

#### SUPPLEMENTARY PROVISIONS

§ 1. (1) "Related persons" within the meaning of this Act shall be:

1. Spouses, relatives on direct line of descent - without any restrictions, relatives on collateral line of descent - up to and including the fourth degree, and in-law lineage - up to and including the third degree;

2. Employers and employees;

3. Persons one of which is involved in the management of the other one's company;

4. Partners;

5. A company and a person who owns more than 5 percent of the company's voting shares and stock;

6. Persons whose activities are under the direct or indirect control of a third party;

7. Persons who exercise joint direct or indirect control over a third party.;

8. Persons one of whom is a commercial agent of the other;

9. Persons one of whom has made a donation in favour of the other.

(2) "Related persons" shall be also persons who either directly or indirectly participate in the management, control or capital of another person or persons, which may enable them to agree on terms and conditions which differ from the standard practice.

§ 2. Debts in foreign currency shall be converted in Bulgarian leva at the exchange rate of the Bulgarian National Bank as of the date on which the ruling to institute bankruptcy proceedings was taken.

§ 3. The provisions set forth in Part Four of this Act concerning commercial companies shall apply also to cooperatives - traders.

§ 4. With the exception of Art. 2, Para 2, Subpara 4 the provisions of the Transformation and Privatisation of State-owned and Municipal Enterprises Act shall not apply to cases referred to in Art. 700, Para 2 of this Act.

§ 5. (1) Decision for Privatisation of a state-owned or municipal enterprise with respect to which bankruptcy proceedings have been initiated, can be taken up to the date of the court of jurisdiction over bankruptcy's ruling for approval of the list of approved claims under Art. 692.

(2) Bankruptcy proceedings shall be discontinued upon approval by the court of the list of recognised claims under Art. 692.

(3) Unless a Privatisation deal is concluded within 4 months after the discontinuation of bankruptcy proceedings, the latter shall be resumed.

(4) Cash receipts deriving from the privatisation of enterprises with respect to which bankruptcy proceedings have been initiated, shall be distributed pursuant to Chapter Forty Four, Section I of this Act. The amount which remains after satisfying the creditors shall be distributed pursuant to Art. 6 of the Transformation and Privatisation of State-owned and Municipal Enterprises Act.

§ 6. This Act shall enter into force on 1 July 1991 and shall repeal Chapters one and two and Article 65, paragraph 4 of Decree 56 on Economic Activity (published *State Gazette* No. 4 of 1989; rectification published No. 16 of 1989; amended Nos. 38, 39 and 62 of 1989, Nos. 21, 31 and 101 of 1990, Nos. 15 and 23 of 1991; rectification published No. 25 of 1991)

§ 7. State-owned and municipal firms registered pursuant to Decree 56 on Economic Activity shall continue their activities under the existing provisions until they are transformed into companies pursuant to Articles 61 and 62 of this Act.

§ 8. (1) The registration of firms pursuant to Decree 56 on Economic Activity shall remain valid, and the following changes shall be made *ex lege*:

1. sole proprietor firms shall be deemed sole proprietors. The name as provided for in Article 59 shall be added if missing;

2. collective or partnership firms of individuals shall be deemed general partnerships. The necessary extension pursuant to article 77 shall be added;

3. limited liability firms shall be deemed limited liability companies. The extension "firma s ogranichena otgovornost" or "OOF" shall be replaced with "druzhestvo s ogranichena otgovornost" or "OOD". The firm's head shall become *ex lege* the company's manager;

4. joint stock firms shall be deemed joint stock companies. The extension "aktsionerna firma" or "AF" shall be replaced with ""aktsionerno druzhestvo" or "AD". The functions of the firm's manager shall be assumed by the company's management board;

5. unlimited liability firms which have not issued stock shall be deemed limited partnerships. The extension "firma s neogranichena otgovornost" or "NOF" shall be replaced with "komanditno druzhestvo" or "KD";

6. unlimited liability firms which have issued stock shall be deemed partnerships limited by shares. The extension "firma s neogranichena otgovornost" or "NOF" shall be replaced with "komanditno druzhestvo s aktsii" or "KDA".

(2) The previous paragraph shall apply *mutatis mutandis* to foreign and joint firms in the country incorporated pursuant to chapter five of Decree 56 on Economic Activity.

§ 9. (1) Persons who are carrying on economic activities pursuant to Council of Ministers Decree No. 35 of 1987 (*State Gazette* No. 48 of 1987) and pursuant to issued on the basis of this decree regulations, and who are merchants within the meaning of this Act, must register within 6 months of the entry into force of this Act.

(2) The deadline under the previous paragraph shall be deemed observed if the respective application is made prior to its expiration.

§ 10. (1) Clauses in articles of incorporation or partnership and in by-laws of firms which have been registered prior to the entry into force of this Act and which are inconsistent with its mandatory provisions shall be replaced *ex lege* with the respective provisions of this Act.

(2) On pending applications for registration the court shall provide, if necessary, a deadline to the interested parties to bring their articles or, respectively, by-laws, in conformity with the provisions of this Act.

## ACT ON AMENDMENT AND SUPPLEMENT OF THE COMMERCE ACT

Promulgated SG 63 of August 05, 1994

### TRANSITIONAL AND CONCLUDING PROVISIONS

§ 7. This Act shall supersede Chapter Three of Decree No.56 On the Economic Activity (promulgated in State Gazette (SG), No.4/1989; amended in No.16/1989; Nos.38, 39 and 62/1989; Nos.21, 31 and 101/1990; No.5/1991; Nos.15 and 23/1991; No.25/1991; Nos.47, 48 and 62/1991; No.60/1992; Nos. 84 and 93/1993).

§ 8. (1) Settlement proceedings under Art. 66 of Economic Activity Decree 56 which are in progress when this Act comes into force, shall be discontinued.

(2) Unresolved bankruptcy cases in progress shall continue pursuant to the procedure established by this Act, where the appointed liquidator shall act as a Receiver in bankruptcy and in case of bankruptcy of a sole proprietor, a Receiver in bankruptcy shall be appointed.

(3) If no asset distribution has started in cases referred to in Para 2, a plan can be suggested pursuant to Art. 696. of this Act within two months after it becomes effective. The plan shall not be considered under Chapter Forty of this Act.

§ 9. In Art. 43, Para 1, Subpara 4 of the Cooperatives Act (prom. in SG, No. 63/1991; amended, Nos. 34 and 55/1992) the words "in the financial" shall be replaced by "in".

§ 10. Para 6 of Art. 63 of the Copyright and Neighbouring Rights Act (SG, No. 56/1993) shall be amended as follows:

"(6) When a producer is ruled bankrupt, an author under Art. 62 shall have the right to purchase the output of the product at the highest price offered, provided he/she requests to do so in writing within three days after the bidding is closed."

§ 11 . Art. 57 of the Banking and Lending Act (prom. in SG, No.25/1992; amended in Nos. 59 and 109/1993) shall be amended as follows:

1. The words "and bankruptcy" shall be deleted.

2. Para. 2 shall be repealed.

This Act was submitted to a vote and duly adopted by the 36th National Assembly on July 21, 1994 and the State Seal was affixed hereto.

Chairman of the National Assembly: **Alexander Yordanov**